Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, MN 55155-4194

MS4 SWPPP Application for Reauthorization

for the NPDES/SDS General Small Municipal Separate Storm Sewer System (MS4) Permit MNR040000 reissued with an effective date of August 1, 2013

Stormwater Pollution Prevention Program (SWPPP) Document

Doc Type: Permit Application

Instructions: This application is for authorization to discharge stormwater associated with Municipal Separate Storm Sewer Systems (MS4s) under the National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) Permit Program. **No fee** is required with the submittal of this application. Please refer to "Example" for detailed instructions found on the Minnesota Pollution Control Agency (MPCA) MS4 website at http://www.pca.state.mn.us/ms4.

Submittal: This *MS4 SWPPP Application for Reauthorization* form must be submitted electronically via e-mail to the MPCA at ms4permitprogram.pca@state.mn.us from the person that is duly authorized to certify this form. All questions with an asterisk (*) are required fields. All applications will be returned if required fields are not completed.

Questions: Contact Claudia Hochstein at 651-757-2881 or claudia.hochstein@state.mn.us, Dan Miller at 651-757-2246 or daniel.miller@state.mn.us, or call toll-free at 800-657-3864.

General Contact Information (*Required fields)

MS4 Owner (with ownership or operational responsibility, or control of the MS4)

*MS4 permittee name: Clay County *County: Clay
(city, county, municipality, government agency or other entity)

*Mailing address: 2951 41 1/2 Street S.

*City: Moorhead *State: MN *Zip code: 56560

*Phone (including area code): (218) 299-5099 *E-mail: nathan.gannon@co.clay.mn.us

MS4 General contact (with Stormwater Pollution Prevention Program [SWPPP] implementation responsibility)

*Last name: Overbo *First name: David
(department head, MS4 coordinator, consultant, etc.)

*Title: County Engineer

*Mailing address: 2951 41 1/2 Street S.

*City: Moorhead *State: MN *Zip code: 56560

*Phone (including area code): (218) 299-5099 *E-mail: david.overbo@co.clay.mn.us

Preparer information (complete if SWPPP application is prepared by a party other than MS4 General contact)

Last name: Gannon First name: Nathan
(department head, MS4 coordinator, consultant, etc.)

Title: Assistant County Engineer

Mailing address: Same as above

City: State: Zip code:

Phone (including area code): E-mail:

Verification

1. I seek to continue discharging stormwater associated with a small MS4 after the effective date of this Permit, and shall submit this *MS4 SWPPP Application for Reauthorization* form, in accordance with the schedule in Appendix A, Table 1, with the SWPPP document completed in accordance with the Permit (Part II.D.). ☒ Yes
2. I have read and understand the NPDES/SDS MS4 General Permit and certify that we intend to comply with all requirements of the Permit. ☒ Yes

Certification (All fields are required)

☒ Yes - *I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted.*

I certify that based on my inquiry of the person, or persons, who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete.

I am aware that there are significant penalties for submitting false information, including the possibility of civil and criminal penalties.

This certification is required by Minn. Stat. §§ 7001.0070 and 7001.0540. The authorized person with overall, MS4 legal responsibility must certify the application (principal executive officer or a ranking elected official).

By typing my name in the following box, I certify the above statements to be true and correct, to the best of my knowledge, and that this information can be used for the purpose of processing my application.

Name: David Overbo
(This document has been electronically signed)

Title: County Engineer Date (mm/dd/yyyy): 10/28/2013

Mailing address: 2951 41 1/2 Street S.

City: Moorhead State: MN Zip code: 56560

Phone (including area code): (218) 299-5099 E-mail: david.overbo@co.clay.mn.us

Note: *The application will not be processed without certification.*

Stormwater Pollution Prevention Program Document

I. Partnerships: (Part II.D.1)

A. List the **regulated small MS4(s)** with which you have established a partnership in order to satisfy one or more requirements of this Permit. Indicate which Minimum Control Measure (MCM) requirements or other program components that each partnership helps to accomplish (List all that apply). Check the box below if you currently have no established partnerships with other regulated MS4s. If you have more than five partnerships, hit the tab key after the last line to generate a new row.

☐ No partnerships with regulated small MS4s

Name and description of partnership	MCM/Other permit requirements involved
City of Moorhead	We have a Memorandum of Understanding covering the enforcement of the City's Storm Water Ordinance within City Limits.
City of Dilworth	We have a Memorandum of Understanding covering the enforcement of the City's Storm Water Ordinance within City Limits.

B. If you have additional information that you would like to communicate about your partnerships with other regulated small MS4(s), provide it in the space below, or include an attachment to the SWPPP Document, with the following file naming convention: *MS4NameHere_Partnerships.*

II. Description of Regulatory Mechanisms: (Part II.D.2)

Illicit discharges

A. Do you have a regulatory mechanism(s) that effectively prohibits non-stormwater discharges into your small MS4, except those non-stormwater discharges authorized under the Permit (Part III.D.3.b.)? ☒ Yes ☐ No

1. If **yes:**

   a. Check which *type* of regulatory mechanism(s) your organization has (check all that apply):

   ☒ Ordinance ☐ Contract language
   ☐ Policy/Standards ☐ Permits
   ☐ Rules
   ☐ Other, explain: _____

   b. Provide either a direct link to the mechanism selected above or attach it as an electronic document to this form; or if your regulatory mechanism is either an Ordinance or a Rule, you may provide a citation:

   Citation:

   Direct link:

   ☒ Check here if attaching an electronic copy of your regulatory mechanism, with the following file naming convention: *MS4NameHere_IDDEreg.*

2. If **no:**

   Describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, this permit requirement is met:

Construction site stormwater runoff control

A. Do you have a regulatory mechanism(s) that establishes requirements for erosion and sediment controls and waste controls? ☒ Yes ☐ No

1. If **yes:**

a. Check which *type* of regulatory mechanism(s) your organization has (check all that apply):

☒ Ordinance ☐ Contract language
☐ Policy/Standards ☐ Permits
☐ Rules
☐ Other, explain: _____

b. Provide either a direct link to the mechanism selected above or attach it as an electronic document to this form; or if your regulatory mechanism is either an Ordinance or a Rule, you may provide a citation:

Citation:

Direct link:

☒ Check here if attaching an electronic copy of your regulatory mechanism, with the following file naming convention: *MS4NameHere_CSWreg.*

B. Is your regulatory mechanism at least as stringent as the MPCA general permit to Discharge Stormwater Associated with Construction Activity (as of the effective date of the MS4 Permit)? ☒Yes ☐ No

If you answered **yes** to the above question, proceed to C.

If you answered **no** to either of the above permit requirements listed in A. or B., describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:

C. Answer **yes** or **no** to indicate whether your regulatory mechanism(s) requires owners and operators of construction activity to develop site plans that incorporate the following erosion and sediment controls and waste controls as described in the Permit (Part III.D.4.a.(1)-(8)), and as listed below:

1. Best Management Practices (BMPs) to minimize erosion. ☒ Yes ☐ No
2. BMPs to minimize the discharge of sediment and other pollutants. ☒ Yes ☐ No
3. BMPs for dewatering activities. ☒ Yes ☐ No
4. Site inspections and records of rainfall events ☒ Yes ☐ No
5. BMP maintenance ☒ Yes ☐ No
6. Management of solid and hazardous wastes on each project site. ☒ Yes ☐ No
7. Final stabilization upon the completion of construction activity, including the use of perennial vegetative cover on all exposed soils or other equivalent means. ☒ Yes ☐ No
8. Criteria for the use of temporary sediment basins. ☒ Yes ☐ No

If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:

Post-construction stormwater management

A. Do you have a regulatory mechanism(s) to address post-construction stormwater management activities? ☒ Yes ☐ No

1. If **yes:**

a. Check which *type* of regulatory mechanism(s) your organization has (check all that apply):

☒ Ordinance ☐ Contract language
☐ Policy/Standards ☐ Permits

☐ Rules
☐ Other, explain: _____

b. Provide either a direct link to the mechanism selected above or attach it as an electronic document to this form; or if your regulatory mechanism is either an Ordinance or a Rule, you may provide a citation:

Citation:

Direct link:

☒ Check here if attaching an electronic copy of your regulatory mechanism, with the following file naming convention: *MS4NameHere_PostCSWreg.*

B. Answer **yes** or **no** below to indicate whether you have a regulatory mechanism(s) in place that meets the following requirements as described in the Permit (Part III.D.5.a.):

1. **Site plan review:** Requirements that owners and/or operators of construction activity submit site plans with post-construction stormwater management BMPs to the permittee for review and approval, prior to start of construction activity. ☒ Yes ☐ No

2. **Conditions for post construction stormwater management:** Requires the use of any combination of BMPs, with highest preference given to Green Infrastructure techniques and practices (e.g., infiltration, evapotranspiration, reuse/harvesting, conservation design, urban forestry, green roofs, etc.), necessary to meet the following conditions on the site of a construction activity to the Maximum Extent Practicable (MEP):

   a. For new development projects – no net increase from pre-project conditions (on an annual average basis) of: ☐ Yes ☒ No

      1) Stormwater discharge volume, unless precluded by the stormwater management limitations in the Permit (Part III.D.5.a(3)(a)).
      2) Stormwater discharges of Total Suspended Solids (TSS).
      3) Stormwater discharges of Total Phosphorus (TP).

   b. For redevelopment projects – a net reduction from pre-project conditions (on an annual average basis) of: ☐ Yes ☒ No

      1) Stormwater discharge volume, unless precluded by the stormwater management limitations in the Permit (Part III.D.5.a(3)(a)).
      2) Stormwater discharges of TSS.
      3) Stormwater discharges of TP.

3. **Stormwater management limitations and exceptions:**

   a. Limitations

      1) Prohibit the use of infiltration techniques to achieve the conditions for post-construction stormwater management in the Permit (Part III.D.5.a(2)) when the infiltration structural stormwater BMP will receive discharges from, or be constructed in areas: ☐ Yes ☒ No

         a) Where industrial facilities are not authorized to infiltrate industrial stormwater under an NPDES/SDS Industrial Stormwater Permit issued by the MPCA.
         b) Where vehicle fueling and maintenance occur.
         c) With less than three (3) feet of separation distance from the bottom of the infiltration system to the elevation of the seasonally saturated soils or the top of bedrock.
         d) Where high levels of contaminants in soil or groundwater will be mobilized by the infiltrating stormwater.

      2) Restrict the use of infiltration techniques to achieve the conditions for post-construction stormwater management in the Permit (Part III.D.5.a(2)), without higher engineering review, sufficient to provide a functioning treatment system and prevent adverse impacts to groundwater, when the infiltration device will be constructed in areas: ☐ Yes ☒ No

         a) With predominately Hydrologic Soil Group D (clay) soils.
         b) Within 1,000 feet up-gradient, or 100 feet down-gradient of active karst features.
         c) Within a Drinking Water Supply Management Area (DWSMA) as defined in Minn. R. 4720.5100, subp. 13.
         d) Where soil infiltration rates are more than 8.3 inches per hour.

      3) For linear projects where the lack of right-of-way precludes the installation of volume control practices that meet the conditions for post-construction stormwater management in the Permit (Part III.D.5.a(2)), the permittee's regulatory mechanism(s) may allow exceptions as described in the Permit (Part III.D.5.a(3)(b)). The permittee's regulatory ☐ Yes ☒ No

mechanism(s) shall ensure that a reasonable attempt be made to obtain right-of-way during the project planning process.

4. **Mitigation provisions:** The permittee's regulatory mechanism(s) shall ensure that any stormwater discharges of TSS and/or TP not addressed on the site of the original construction activity are addressed through mitigation and, at a minimum, shall ensure the following requirements are met:
   a. Mitigation project areas are selected in the following order of preference: ☐ Yes ☒ No
      1) Locations that yield benefits to the same receiving water that receives runoff from the original construction activity.
      2) Locations within the same Minnesota Department of Natural Resource (DNR) catchment area as the original construction activity.
      3) Locations in the next adjacent DNR catchment area up-stream
      4) Locations anywhere within the permittee's jurisdiction.
   b. Mitigation projects must involve the creation of new structural stormwater BMPs or the retrofit of existing structural stormwater BMPs, or the use of a properly designed regional structural stormwater BMP. ☐ Yes ☒ No
   c. Routine maintenance of structural stormwater BMPs already required by this permit cannot be used to meet mitigation requirements of this part. ☐ Yes ☒ No
   d. Mitigation projects shall be completed within 24 months after the start of the original construction activity. ☐ Yes ☒ No
   e. The permittee shall determine, and document, who will be responsible for long-term maintenance on all mitigation projects of this part. ☐ Yes ☒ No
   f. If the permittee receives payment from the owner and/or operator of a construction activity for mitigation purposes in lieu of the owner or operator of that construction activity meeting the conditions for post-construction stormwater management in Part III.D.5.a(2), the permittee shall apply any such payment received to a public stormwater project, and all projects must be in compliance with Part III.D.5.a(4)(a)-(e). ☐ Yes ☒ No

5. **Long-term maintenance of structural stormwater BMPs:** The permittee's regulatory mechanism(s) shall provide for the establishment of legal mechanisms between the permittee and owners or operators responsible for the long-term maintenance of structural stormwater BMPs not owned or operated by the permittee, that have been implemented to meet the conditions for post-construction stormwater management in the Permit (Part III.D.5.a(2)). This only includes structural stormwater BMPs constructed after the effective date of this permit and that are directly connected to the permittee's MS4, and that are in the permittee's jurisdiction. The legal mechanism shall include provisions that, at a minimum:
   a. Allow the permittee to conduct inspections of structural stormwater BMPs not owned or operated by the permittee, perform necessary maintenance, and assess costs for those structural stormwater BMPs when the permittee determines that the owner and/or operator of that structural stormwater BMP has not conducted maintenance. ☒ Yes ☐ No
   b. Include conditions that are designed to preserve the permittee's right to ensure maintenance responsibility, for structural stormwater BMPs not owned or operated by the permittee, when those responsibilities are legally transferred to another party. ☒ Yes ☐ No
   c. Include conditions that are designed to protect/preserve structural stormwater BMPs and site features that are implemented to comply with the Permit (Part III.D.5.a(2)). If site configurations or structural stormwater BMPs change, causing decreased structural stormwater BMP effectiveness, new or improved structural stormwater BMPs must be implemented to ensure the conditions for post-construction stormwater management in the Permit (Part III.D.5.a(2)) continue to be met. ☒ Yes ☐ No

If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within twelve (12) months of the date permit coverage is extended, these permit requirements are met:

For items 2a through 4f, we will meet with our County Attorney's Office within the next 6 months and draft language to meet the requirements of the permit. We will then submit the revised ordinance for MPCA review within 9 months of re-authorization of the permit.

III. Enforcement Response Procedures (ERPs): (Part II.D.3)

A. Do you have existing ERPs that satisfy the requirements of the Permit (Part III.B.)? ☐ Yes ☒ No

1. If **yes**, attach them to this form as an electronic document, with the following file naming convention: *MS4NameHere_ERPs.*
2. If **no**, describe the tasks and corresponding schedules that will be taken to assure that, with twelve (12) months of the date permit coverage is extended, these permit requirements are met:

   Enforcement Response Procedures are outlined in our ordinance, however we do not have a stand alone document for staff to utilize in enforcing our ordinance. Within the next 6 months, highway department staff will meet and create a stand alone document to outline our enforcement procedures. Within 9 months these procedures will be submitted to MPCA for review.

B. Describe your ERPs:

IV. Storm Sewer System Map and Inventory: (Part II.D.4.)

A. Describe how you manage your storm sewer system map and inventory:

We have a CADD map that lists all storm sewers, their outfalls, and pond locations under our jurisdiction with a separate file for each location. The file includes pictures of each feature and copies of the annual inspection reports. The map is reviewed annually to ensure all new features are included based on the Adjusted Urbanized Boundary.

B. Answer **yes** or **no** to indicate whether your storm sewer system map addresses the following requirements from the Permit (Part III.C.1.a-d), as listed below:

1. The permittee's entire small MS4 as a goal, but at a minimum, all pipes 12 inches or greater in diameter, including stormwater flow direction in those pipes. ☒ Yes ☐ No
2. Outfalls, including a unique identification (ID) number assigned by the permittee, and an associated geographic coordinate. ☒ Yes ☐ No
3. Structural stormwater BMPs that are part of the permittee's small MS4. ☒ Yes ☐ No
4. All receiving waters. ☒ Yes ☐ No

If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:

C. Answer **yes** or **no** to indicate whether you have completed the requirements of 2009 Minnesota Session Law, Ch. 172. Sec. 28: with the following inventories, according to the specifications of the Permit (Part III.C.2.a.-b.), including:

1. All ponds within the permittee's jurisdiction that are constructed and operated for purposes of water quality treatment, stormwater detention, and flood control, and that are used for the collection of stormwater via constructed conveyances. ☐ Yes ☒ No
2. All wetlands and lakes, within the permittee's jurisdiction, that collect stormwater via constructed conveyances. ☐ Yes ☒ No

D. Answer **yes** or **no** to indicate whether you have completed the following information for each feature inventoried.

1. A unique identification (ID) number assigned by the permittee. ☐ Yes ☒ No
2. A geographic coordinate. ☐ Yes ☒ No
3. Type of feature (e.g., pond, wetland, or lake). This may be determined by using best professional judgment. ☐ Yes ☒ No

If you have answered **yes** to all above requirements, and you have already submitted the Pond Inventory Form to the MPCA, then you do not need to resubmit the inventory form below.

If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:

Within the next 9 months, highway department staff will meet and create a map of the ponds, wetlands, and lakes as required above. Within 12 months this map will be submitted to MPCA for review.

E. Answer **yes** or **no** to indicate if you are attaching your pond, wetland and lake inventory to the MPCA on the form provided on the MPCA website at: http://www.pca.state.mn.us/ms4 , according to the specifications of Permit (Part III.C.2.b.(1)-(3)). Attach with the following file naming convention: *MS4NameHere_inventory*. ☐ Yes ☒ No

If you answered **no,** the inventory form must be submitted to the MPCA MS4 Permit Program within 12 months of the date permit coverage is extended.

V. Minimum Control Measures (MCMs) (Part II.D.5)

A. MCM1: Public education and outreach

1. The Permit requires that, within 12 months of the date permit coverage is extended, existing permittees revise their education and outreach program that focuses on illicit discharge recognition and reporting, as well as other specifically selected stormwater-related issue(s) of high priority to the permittee during this permit term. Describe your **current** educational program, including **any high-priority topics included**:

   Our education program primarily consists of providing county residents information regarding storm water pollution prevention at the annual county fair during County Government Day. We distribute a brochure that discusses providing buffers to streams and agricultural drainage ditches, hazerdous waste disposal, and car care tips. We also provide information on our website with links to local storm water educational resources such as River Keepers. Our website also provides an e-mail contact and phone numbers to report illicit discharges. A high priority in our MS4 area is providing buffer strips to streams and rivers in agricultural land and preventing scour of stream banks.

2. List the categories of BMPs that address your public education and outreach program, including the distribution of educational materials and a program implementation plan. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

   Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. Refer to the U.S. Environmental Protection Agency's (EPA) *Measurable Goals Guidance for Phase II Small MS4s* (http://www.epa.gov/npdes/pubs/measurablegoals.pdf).

   If you have more than five categories, hit the tab key after the last line to generate a new row.

Established BMP categories	**Measurable goals and timeframes**
Annual Public Meeting	Advertise and hold an annual public meeting. Review the number of attendee's. This BMP is in-place.
Education Program: Public Education and Outreach (Government Day at the County Fair)	Pass out educational brochures regarding storm water pollution prevention. Talk to citizen's about what they can do to minimize impacts and report illicit discharges. Count the number of brochures handed out and citizens that stop by the booth. This BMP is in-place.
Distribute Educational Materials	Place information on our website and create a brochure to hand out at events. Count the number of brochures handed out and website hits. This BMP is in-place.
Illicit Discharge Detection and Elimination	Meetings and field visits with key stake holders to explain the storm water ordinance and discuss illicit discharge detection. This BMP is in-place.
Post-Construction Storm water Management in New Development and Redevelopment	See how much attendance changes from year to year and continue to try and target the most affected people. This BMP is in-place. No development in our jurisdiction has rendered this BMP ineffective.

BMP categories to be implemented	**Measurable goals and timeframes**
Education Program: Promote vegetative buffer strips to reduce drainage ditch sediment loads	Meet with Watersheds, Soil and Water Conservation District to develop an educational program to educate landowners on the benefits of creating more vegetative buffer strips within 1 year of permit approval. Effectiveness will be measured by the number of acres of buffer strips added annually.

3. Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:

   Nathan Gannon, Assistant County Engineer

B. MCM2: Public participation and involvement

1. The Permit (Part III.D.2.a.) requires that, within 12 months of the date permit coverage is extended, existing permittees shall revise their current program, as necessary, and continue to implement a public participation/involvement program to solicit public input on the SWPPP. Describe your current program:

We currently partner with the Minnesota Department of Transportation District 4 in a joint pubic meeting annually in the spring. A copy of our SWPPP, annual reports, and storm sewer map is avaiible for public comment. The meeting is advertised in several local papers as per public notice laws.

2. List the categories of BMPs that address your public participation/involvement program, including solicitation and documentation of public input on the SWPPP. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

   Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. Refer to the EPA's *Measurable Goals Guidance for Phase II Small MS4s* (http://www.epa.gov/npdes/pubs/measurablegoals.pdf). **If you have more than five categories**, hit the tab key after the last line to generate a new row.

Established BMP categories	**Measurable goals and timeframes**
Comply with Public Notice Requirements	The public meeting notice is given 30 days prior to the meeting annually. This BMP is currently in-place.
Solicit Public Input and Opinion on the Adequacy of the SWPPP	Solicit comments and opinions annually at the annual meeting from residents and business owners. Track the comments and look to expand the solicitation to ensure all residents are reached. This BMP is currently in-place.
Consider Public Input	Address and implement all input that will positively affect the storm water program in Clay County. Review comments and opinions annually after the public meeting. Record input as required by the permit.

BMP categories to be implemented	**Measurable goals and timeframes**
Website Solicitation of SWPPP and related documents	Place SWPPP and related documents on the highway department website to allow review of the documents by the public at their convenience within one year of permit approval. Monitor the number of e-mail comments received, record, and make improvements to SWPPP as necessary.

3. Do you have a process for receiving and documenting citizen input? ☒ Yes ☐ No

   If you answered **no** to the above permit requirement, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, this permit requirement is met:

4. Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:

   Nathan Gannon, Assistant County Engineer

C. MCM 3: Illicit discharge detection and elimination

1. The Permit (Part III.D.3.) requires that, within 12 months of the date permit coverage is extended, existing permittees revise their current program as necessary, and continue to implement and enforce a program to detect and eliminate illicit discharges into the small MS4. Describe your current program:

   We check for illicit discharges while doing our inspection and maintenance activites. Our field staff have watched a training video dealing with what to look for in our ditches and outfall structures to determine if an illicit discharge is taking place. We also have a location on our website for the public to report illicit discharges, with an after-hours number in the case of an emergency.

2. Does your Illicit Discharge Detection and Elimination Program meet the following requirements, as found in the Permit (Part III.D.3.c.-g.)?

   a. Incorporation of illicit discharge detection into all inspection and maintenance activities conducted under the Permit (Part III.D.6.e.-f.)Where feasible, illicit discharge inspections shall be conducted during dry-weather conditions (e.g., periods of 72 or more hours of no precipitation). ☒ Yes ☐ No

b. Detecting and tracking the source of illicit discharges using visual inspections. The permittee may also include use of mobile cameras, collecting and analyzing water samples, and/or other detailed procedures that may be effective investigative tools. ☒ Yes ☐ No

c. Training of all field staff, in accordance with the requirements of the Permit (Part III.D.6.g.(2)), in illicit discharge recognition (including conditions which could cause illicit discharges), and reporting illicit discharges for further investigation. ☒ Yes ☐ No

d. Identification of priority areas likely to have illicit discharges, including at a minimum, evaluating land use associated with business/industrial activities, areas where illicit discharges have been identified in the past, and areas with storage of large quantities of significant materials that could result in an illicit discharge. ☒ Yes ☐ No

e. Procedures for the timely response to known, suspected, and reported illicit discharges. ☐ Yes ☒ No

f. Procedures for investigating, locating, and eliminating the source of illicit discharges. ☐ Yes ☒ No

g. Procedures for responding to spills, including emergency response procedures to prevent spills from entering the small MS4. The procedures shall also include the immediate notification of the Minnesota Department of Public Safety Duty Officer, if the source of the illicit discharge is a spill or leak as defined in Minn. Stat. § 115.061. ☐ Yes ☒ No

h. When the source of the illicit discharge is found, the permittee shall use the ERPs required by the Permit (Part III.B.) to eliminate the illicit discharge and require any needed corrective action(s). ☐ Yes ☒ No

If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:

With regard to items e-h, we have a procedure for the response and investigation to illicit discharges, however it is not written in a policy document. Within 9 months of permit approval, a policy document will be completed to outline the requirements in items e-h above. It will then be submitted to MPCA for review.

3. List the categories of BMPs that address your illicit discharge, detection and elimination program. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

   Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. Refer to the EPA's *Measurable Goals Guidance for Phase II Small MS4s* (http://www.epa.gov/npdes/pubs/measurablegoals.pdf).

   If you have more than five categories, hit the tab key after the last line to generate a new row.

Established BMP categories	**Measurable goals and timeframes**
Storm Sewer System Map	Clay County will develop a Storm Sewer System Map to identify locations of discharge within Clay County highway department jurisdiction. This BMP is currently in-place.
Regulatory Control Program	Develop and adopt a Storm water Ordinance. Identify illegal/illicit dumping sites. Enforce the ordinance as necessary. Develop educational materials for the public on appropriate storm water management to minimize illegal dumping. This BMP is currently in-place but will be revised to comply with new permit language as indicated above.
Illicit Discharge Detection and Elimination	Follow up on complaints and notifications. Log the number of illegal discharges detected. Record all complaints received and detections/inspections performed. Track the miles highway covered by the Adopt-a-Highway program and the amount of trash removed. This BMP is currently in-place.
Public and employee illicit discharge information program	Conduct an annual training of employees on illicit discharge detection. Discuss illicit discharges at the semi-annual Township Officials meeting annually. This BMP is currently in-place.
Identification of non-storm water discharges and flows	Develop a process to investigate and evaluate non-storm water discharges to be significant contributors of pollutants to the MS4. Conduct investigations and evaluate non-storm water discharges and flows. For those non-storm water discharges and flows identified, develop an action plan to address the impacts the discharge is having. This BMP is currently in-place.

BMP categories to be implemented	**Measurable goals and timeframes**

4. Do you have procedures for record-keeping within your Illicit Discharge Detection and Elimination (IDDE) program as specified within the Permit (Part III.D.3.h.)? ☐ Yes ☒ No

   If you answered **no**, indicate how you will develop procedures for record-keeping of your Illicit Discharge, Detection and Elimination Program, within 12 months of the date permit coverage is extended:

   Within 9 months of permit approval, procedures for record keeping will be developed as required by the permit. It will then be submitted to MPCA for review.

5. Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:

   Nathan Gannon, Assistant County Engineer

D. MCM 4: Construction site stormwater runoff control

1. The Permit (Part III.D.4) requires that, within 12 months of the date permit coverage is extended, existing permittees shall revise their current program, as necessary, and continue to implement and enforce a construction site stormwater runoff control program. Describe your current program:

   We have a Storm Water Ordinance that specifies requirements for site dewatering, waste and material disposal, vehicle tracking, water quality protection, erosion and sediment control, and concrete washouts. The ordinance also states that that the contractor is subject to all applicable federal and state requirements, such as obtaining an NPDES Permit. The contractor must also provide the county with a SWPPP that details all BMP's.

2. Does your program address the following BMPs for construction stormwater erosion and sediment control as required in the Permit (Part III.D.4.b.):
   a. Have you established written procedures for site plan reviews that you conduct prior to the start of construction activity? ☐ Yes ☒ No
   b. Does the site plan review procedure include notification to owners and operators proposing construction activity that they need to apply for and obtain coverage under the MPCA's general permit to *Discharge Stormwater Associated with Construction Activity No. MN R100001*? ☒ Yes ☐ No
   c. Does your program include written procedures for receipt and consideration of reports of noncompliance or other stormwater related information on construction activity submitted by the public to the permittee? ☐ Yes ☒ No
   d. Have you included written procedures for the following aspects of site inspections to determine compliance with your regulatory mechanism(s):
      1) Does your program include procedures for identifying priority sites for inspection? ☐ Yes ☒ No
      2) Does your program identify a frequency at which you will conduct construction site inspections? ☐ Yes ☒ No
      3) Does your program identify the names of individual(s) or position titles of those responsible for conducting construction site inspections? ☐ Yes ☒ No
      4) Does your program include a checklist or other written means to document construction site inspections when determining compliance? ☐ Yes ☒ No
   e. Does your program document and retain construction project name, location, total acreage to be disturbed, and owner/operator information? ☐ Yes ☒ No
   f. Does your program document stormwater-related comments and/or supporting information used to determine project approval or denial? ☐ Yes ☒ No
   g. Does your program retain construction site inspection checklists or other written materials used to document site inspections? ☐ Yes ☒ No

   If you answered **no** to any of the above permit requirements, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met.

   Within 9 months of permit approval, staff will meet and develop written procedures for items a-g as required by the permit. It will then be submitted to MPCA for review.

3. List the categories of BMPs that address your construction site stormwater runoff control program. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

   Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. Refer to the EPA's *Measurable Goals Guidance for Phase II Small MS4s*

(http://www.epa.gov/npdes/pubs/measurablegoals.pdf). **If you have more than five categories**, hit the tab key after the last line to generate a new row.

Established BMP categories	Measurable goals and timeframes
Ordinance or other Regulatory Mechanism	Develop county-wide ordinance for Erosion Control/Stormwater Management which, at a minimum, will address: (1) Requirements for Site Plan submittal by site operators to the MS4 including erosion and sediment control BMPs. (2) Site plan review and approval by MS4 prior to activity on site. (3) Requirements and design standards for temporary erosion and sediment controls during construction activities. (4) Requirements for record keeping of rainfall amounts and inspections by site operators. (5) Regular inspections by site operators. (6) Requirements and criteria for dewatering and basin draining. (7) Requirements and criteria for BMP maintenance. (8) Requirements concerning waste controls for hazardous waste. (9) Requirements concerning waste controls for solid waste. (10) Requirements and design standards for permanent erosion and sediment controls following the completion of construction activities. (11) Permanent storm water management system review and approval by the MS4. This BMP is currently in-place, but will be revised as stated above.
Construction Site Implementation of Erosion and Sediment Control BMP's	Involve local MPCA officials in the development of BMP's in Clay County construction plans and utilize their expertise during construction by inviting them on site reviews. This BMP is currently in-place.
Waste Controls for Construction Site Operators	Continue to train all construction staff to ensure that regulated waste is disposed of properly and controlled on construction projects. This BMP is currently in-place.
Procedure for Site Plan Review	Monitor the compliance with the site plan to determine if comments made in the review process are being implemented during construction. If comments are not being incorporated during construction revoke the permit until changes are made. Also, if violations occur, incorporate changes to the approval process to ensure compliance. This BMP will be modified as per the requirements of the new permit as listed above.
Establishment of Procedures for the Receipt and Consideration of Reports of Storm Water Non-compliance	Log each complaint on a field report with a time and date stamp. Use a spreadsheet to track the time taken to resolve each complaint

BMP categories to be implemented	Measurable goals and timeframes

4. Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:

   Nathan Gannon, Assistant County Engineer

E. MCM 5: Post-construction stormwater management

1. The Permit (Part III.D.5.) requires that, within 12 months of the date permit coverage is extended, existing permittees shall revise their current program, as necessary, and continue to implement and enforce a post-construction stormwater management program. Describe your current program:

   As a component of our Storm Water Ordinnance, we require a management plan for each subdivision or plat prior to permit approval. We utilize the Minnesota Storm Water Manual as a reference to our permit applicants to aid in selecting

the most appropriate BMP's. Our Ordinance also requires easments remain in place to allow inspections and maintenance of all structural BMP's.

2. Have you established written procedures for site plan reviews that you will conduct prior to the start of construction activity? ☐ Yes ☒ No

3. Answer **yes** or **no** to indicate whether you have the following listed procedures for documentation of post-construction stormwater management according to the specifications of Permit (Part III.D.5.c.):

   a. Any supporting documentation that you use to determine compliance with the Permit (Part III.D.5.a), including the project name, location, owner and operator of the construction activity, any checklists used for conducting site plan reviews, and any calculations used to determine compliance? ☐ Yes ☒ No

   b. All supporting documentation associated with mitigation projects that you authorize? ☐ Yes ☒ No

   c. Payments received and used in accordance with Permit (Part III.D.5.a.(4)(f))? ☐ Yes ☒ No

   d. All legal mechanisms drafted in accordance with the Permit (Part III.D.5.a.(5)), including date(s) of the agreement(s) and names of all responsible parties involved? ☐ Yes ☒ No

   If you answered **no** to any of the above permit requirements, describe the steps that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met.

   Within 9 months of permit approval, staff will meet and develop written procedures for documenting items 2 and 3 as required by the permit. It will then be submitted to MPCA for review.

4. List the categories of BMPs that address your post-construction stormwater management program. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

   Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. Refer to the EPA's *Measurable Goals Guidance for Phase II Small MS4s* (http://www.epa.gov/npdes/pubs/measurablegoals.pdf). **If you have more than five categories**, hit the tab key after the last line to generate a new row.

Established BMP categories	Measurable goals and timeframes
Development and Implementation of Structural and/or Non-structural BMP's	Continue to require storm water management plans as a component of the permitting/approval process for the Storm Water Ordinance. Have proposed plans reviewed by the SWCD and appropriate Watershed District. This BMP is currently in-place and will be revised as required in the permit.
Regulatory Mechanism to Address Post-Construction Runoff from New Development and Re-Development	The Storm Water Ordinance currently requires post-construction runoff to be addressed.
Long-term Operation and Maintenance of BMP's	Continue with current requirements for storm water management facilities to be integral to new developments.

BMP categories to be implemented	Measurable goals and timeframes
Ordinance with Provisions for Limiting TSS, TP, Volume, and Infiltration	Within 9 months of permit approval, staff will develop provisions in the Storm Water Ordinance to limit these items as required by the permit.
Mitigation Provisions in the Ordinance	Within 9 months of permit approval, staff will develop provisions in the Storm Water Ordinance to provide opportunities for mitigation projects where managing TSS and TP on the original construction site is not practical.

5. Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:

   Nathan Gannon, Assistant County Engineer

F. MCM 6: Pollution prevention/good housekeeping for municipal operations

1. The Permit (Part III.D.6.) requires that, within 12 months of the date permit coverage is extended, existing permittees shall revise their current program, as necessary, and continue to implement an operations and maintenance program that prevents or reduces the discharge of pollutants from the permittee owned/operated facilities and operations to the small MS4. Describe your current program:

   We review our annual sand/salt usage and train our operators on correct application on the roadways for a given storm. In the spring, and as needed, we hire a contractor to sweep our roadways in the urban areas to remove sand. We inspect all of our outfalls annually and report deficiencies to the maintenance staff for prioritization of repair. All of our stockpiles are inspected annually to ensure sediment does not run off to our stormwater facilities.

2. Do you have a facilities inventory as outlined in the Permit (Part III.D.6.a.)? ☒ Yes ☐ No

3. If you answered **no** to the above permit requirement in question 2, describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, this permit requirement is met:

4. List the categories of BMPs that address your pollution prevention/good housekeeping for municipal operations program. Use the first table for categories of BMPs that you have established and the second table for categories of BMPs that you plan to implement over the course of the permit term.

   Include the measurable goals with appropriate timeframes that each BMP category will be implemented and completed. In addition, provide interim milestones and the frequency of action in which the permittee will implement and/or maintain the BMPs. For an explanation of measurable goals, refer to the EPA's *Measurable Goals Guidance for Phase II Small MS4s* (http://www.epa.gov/npdes/pubs/measurablegoals.pdf).

   If you have more than five categories, hit the tab key after the last line to generate a new row.

Established BMP categories	**Measurable goals and timeframes**
Municipal Operations and Maintenance Program	Track Sand/Salt Usage in the permit area to determine if over-application is occurring. Tracking methods will be reviewed as we have begun to utilize new equipment in our trucks that can track usage by event and roadway. Over the next six months this method will be tested to see if it is accurate.
Street Sweeping	The County will track the number of times the streets are swept and review sediment quantities in the gutter and on the street to determine if more sweeping is needed. This BMP is currently in-place.
Annual Inspection of All Structural Pollution Control Devices	Clay County will record the number of structural pollution prevention control devices inspected along with the sediment level and condition of the device.
Inspection of a minimum of 20 percent of the MS4 Outfalls, Sediment Basins, and Ponds each year on a rotating basis	Clay County will record the number of outfalls inspected and rate the condition of outfalls and ponds. This BMP is currently in-place.
Annual Inspection of all exposed stockpile, storage, and material handling areas	The County will document the numbers of stockpiles inspected and material handling areas inspected. This BMP is currently in-place.
Inspection follow-up, including the determination of whether repair, replacement, or maintenance measures are necessary and the implementation of the corrective measures	Document the dates and locations of any corrective action taken. This BMP is currently in-place.
Record reporting and retention of all inspections and responses to the inspections	Complete the inspection reports and Store them at the Clay County Highway Department. This BMP is currently in-place.
Evaluation of inspection frequency	Review the condition of outfalls to see if maintenance is being performed often enough to correct deficiencies and adjust accordingly. This BMP is currently in-place.

BMP categories to be implemented	**Measurable goals and timeframes**

5. Does discharge from your MS4 affect a Source Water Protection Area (Permit Part III.D.6.c.)? ☐ Yes ☒ No

   a. If **no**, continue to 6.

   b. If **yes**, the Minnesota Department of Health (MDH) is in the process of mapping the following items. Maps are available at http://www.health.state.mn.us/divs/eh/water/swp/maps/index.htm. Is a map including the following items available for your MS4:

      1) Wells and source waters for drinking water supply management areas identified as vulnerable under Minn. R. 4720.5205, 4720.5210, and 4720.5330? ☐ Yes ☐ No

      2) Source water protection areas for surface intakes identified in the source water assessments conducted by or for the Minnesota Department of Health under the federal Safe Drinking Water Act, U.S.C. §§ 300j – 13? ☐ Yes ☐ No

   c. Have you developed and implemented BMPs to protect any of the above drinking water sources? ☐ Yes ☐ No

6. Have you developed procedures and a schedule for the purpose of determining the TSS and TP treatment effectiveness of all permittee owned/operated ponds constructed and used for the collection and treatment of stormwater, according to the Permit (Part III.D.6.d.)? ☐ Yes ☒ No

7. Do you have inspection procedures that meet the requirements of the Permit (Part III.D.6.e.(1)-(3)) for structural stormwater BMPs, ponds and outfalls, and stockpile, storage and material handling areas? ☒ Yes ☐ No

8. Have you developed and implemented a stormwater management training program commensurate with each employee's job duties that:

   a. Addresses the importance of protecting water quality? ☒ Yes ☐ No

   b. Covers the requirements of the permit relevant to the duties of the employee? ☒ Yes ☐ No

   c. Includes a schedule that establishes initial training for new and/or seasonal employees and recurring training intervals for existing employees to address changes in procedures, practices, techniques, or requirements? ☒ Yes ☐ No

9. Do you keep documentation of inspections, maintenance, and training as required by the Permit (Part III.D.6.h.(1)-(5))? ☒ Yes ☐ No

   If you answered **no** to any of the above permit requirements listed in **Questions 5 – 9**, then describe the tasks and corresponding schedules that will be taken to assure that, within 12 months of the date permit coverage is extended, these permit requirements are met:

   There is currently one pond which we recently realized was partially located on Clay County highway right-of-way, however we do not own or operate it. This is the only location of a pond on county right-of-way. Therefore, we do not have procedures or a schedule for determining the TSS and TP treatment effectiveness for ponds constructed to treat storm water. Should the county own or operate a pond as outlined in the permit in the future, we will ensure the TSS and TP treatments are effective and maintenance is performed.

10. Provide the name or the position title of the individual(s) who is responsible for implementing and/or coordinating this MCM:

    David Overbo, County Engineer

VI. Compliance Schedule for an Approved Total Maximum Daily Load (TMDL) with an Applicable Waste Load Allocation (WLA) (Part II.D.6.)

A. Do you have an approved TMDL with a Waste Load Allocation (WLA) prior to the effective date of the Permit? ☐ Yes ☒ No

   1. If **no**, continue to section VII.

   2. If **yes**, fill out and attach the MS4 Permit TMDL Attachment Spreadsheet with the following naming convention**:** *MS4NameHere_TMDL.*

      This form is found on the MPCA MS4 website: http://www.pca.state.mn.us/ms4.

VII. Alum or Ferric Chloride Phosphorus Treatment Systems (Part II.D.7.)

A. Do you own and/or operate any Alum or Ferric Chloride Phosphorus Treatment Systems which are regulated by this Permit (Part III.F.)? ☐ Yes ☒ No

1. If **no**, this section requires no further information.
2. If **yes**, you own and/or operate an Alum or Ferric Chloride Phosphorus Treatment System within your small MS4, then you must submit the Alum or Ferric Chloride Phosphorus Treatment Systems Form supplement to this document, with the following naming convention: *MS4NameHere_TreatmentSystem*.

   This form is found on the MPCA MS4 website: http://www.pca.state.mn.us/ms4.

VIII. Add any Additional Comments to Describe Your Program

CLAY COUNTY, MINNESOTA

ORDINANCE NO. 2013-1

AN ORDINANCE OF THE COUNTY OF CLAY, STATE OF MINNESOTA ADOPTING A MANDATORY SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEM ("MS4") REGULATORY MECHANISM

WHEREAS, the County of Clay, State of Minnesota ("County") is a statutory County duly organized and existing under Article XII of the Minnesota Constitution; and

WHEREAS, pursuant to Minnesota Statute Chapter 394 and specifically § 394.21, the County has the power and authority to conduct and implement planning activities; and

WHEREAS, according to Minnesota Rules, Clay County is a Mandatory Small Municipal Separate Storm Sewer System ("MS4") and is required to hold a MS4 permit; and

WHEREAS, according to the Minnesota Pollution Control Agency, Clay County must have an ordinance to regulate MS4 discharges in order to maintain our MS4 permit; and

WHEREAS, the County hereby finds and determines that the proposed MS4 ordinance is appropriate and necessary to the function and efficient operation of the County and to ensure the health, safety, morals, and general welfare of the County.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE COUNTY OF CLAY, STATE OF MINNESOTA HEREBY ORDAINS AS FOLLOWS:

Section 1. Adopt the proposed MS4 Ordinance as set forth within Exhibit A. The County hereby adopts the proposed ordinance, attached hereto and incorporated herein as Exhibit A.

Section 2. Severability. If any portion of this Ordinance is found to be void or ineffective, it shall be deemed severed from this Ordinance and the remaining provisions shall remain valid and in full force and effect.

Section 3. Effective Date. This Ordinance shall become effective and be in force immediately upon final passage, consistent with Minnesota Statute § 375.51.

ADOPTED BY THE CLAY COUNTY BOARD OF COMMISSIONERS ON_____, 2013

_____

WAYNE INGERSOLL, CLAY COUNTY BOARD OF COMMISSIONERS

ATTEST: _____

BRIAN BERG, CLAY COUNTY ADMINISTRATOR

SECTION 1. GENERAL PROVISIONS

A. PURPOSE:

1. This Chapter sets forth uniform requirements for stormwater management systems within the County of Clay. In the event of any conflict between the provisions of this Chapter or other regulations adopted by the County of Clay, the Cities of Moorhead and Dilworth, state or federal authorities, the more restrictive standard prevails.

2. The objectives of this Chapter are as follows:

   a. To promote, preserve, and enhance the natural resources within the County of Clay from adverse or undesirable impacts occasioned by development or other activities;

   b. To protect and promote the health, safety, and welfare of the people and property through effective stormwater quantity and quality management practices;

   c. To regulate land development activity, land disturbing activity, or other activities that may have an adverse and/or potentially irreversible impact on stormwater quantity, water quality and/or environmentally sensitive lands and to encourage compatibility between such uses;

   d. To establish detailed review standards and procedures for land development activities throughout the County of Clay, thereby achieving a balance between urban growth and development and the protection of water quality; and

   e. To provide for adequate stormwater system analysis and design as necessary to protect public and private property, water quality and existing natural resources.

3. This Chapter applies in the County of Clay, Minnesota, within the Urbanized Area and to persons outside the County who are, by contract or agreement with the County, users of the County stormwater management system. Except as otherwise provided herein, the County Engineer shall administer, implement, and enforce the provisions of this Chapter.

   The Urbanized Area is defined in subsection B, below. A map of the current Urbanized Area is hereby adopted by reference and declared to be part of this Ordinance as Section 9, below. As the Urbanized Area changes based on the Adjusted Urban Area Map in conjunction with the most current United States Census, the map shall be automatically updated without necessity of further action by the County Board.

B. DEFINITIONS:

For the purpose of this Chapter, the following terms, phrases, and words, and their derivatives, shall have the meanings as stated in this section. When inconsistent with the context, words used in the present tense include the future tense. Words in plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and the word "may" is always permissive.

APPLICANT:	Any person or group that applies for a building permit, subdivision approval, zoning change, approach, utility or special use permit, stormwater plan approval, stormwater permit or any other permit which allows land disturbing activities. "Applicant" also means that person's agents, employees, and others acting under this person's or group's direction. The term "applicant" also refers to the permit holder or holders and the permit holder's agents, employees, and others acting under this person's or group's direction.
BASE FLOOD OR REGIONAL FLOOD OR 100-YEAR FLOOD:	The flood having a one percent (1%) chance or probability of being equaled or exceeded in any given year.
BEST MANAGEMENT PRACTICES (BMP):	Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing the degradation of surface water, including construction phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by federal, state, or designated area-wide planning agencies or included in the "Minnesota Stormwater Manual."
BMPs:	Measures designed to: prevent pollutants from leaving a specific area; reduce/eliminate the introduction of pollutants; protect sensitive areas; or prevent the interaction between precipitation and pollutants.
BUFFER:	A protective vegetated zone located adjacent to a natural resource, such as a "water of the state" that is subject to direct or indirect human alteration. Such a buffer strip is an integral part of protecting an aquatic ecosystem through trapping sheet erosion, filtering pollutants, reducing channel erosion and providing adjacent habitat. The buffer strip begins at the "ordinary high water mark" for wetlands and channel for rivers and streams. This start point corresponds to the Minnesota Department of Natural Resources (DNR) definition of a "shoreline" in Minnesota Rules 6115.0030.
COUNTY:	The County of Clay or the County Board of the County of Clay.
COUNTY ENGINEER:	The County Engineer of the County of Clay or authorized agent.
CONTROL MEASURE:	A practice or combination of practices to control erosion and attendant pollution, see also definition of Best Management Practices (BMP).
COUNTY BOARD:	The County Board of the County of Clay.

DEVELOPER:	A person, firm, corporation, sole proprietorship, partnership, federal or state agency, or political subdivision thereof engaged in a land disturbance and/or land development activity.
DEVELOPMENT:	Any land disturbance activity that changes the site's runoff characteristics in conjunction with residential, commercial, industrial or institutional construction or alteration.
DISCHARGE:	The release, conveyance, channeling, runoff, or drainage, of stormwater, including snowmelt.
DRAINAGE EASEMENT:	A right to use the land of another for a specific purpose, such as a right of way for the movement of water across or under the land surface or the storage of water.
EROSION:	Removing the surface of the land by the action of water, wind, ice, or gravity. Erosion can be accelerated by the activities of man and nature.
EROSION AND SEDIMENT CONTROL PLAN (E&S CONTROL PLAN):	A written description and/or plan indicating the number, locations, sizes, and other pertinent information about best management practice methods designed to reduce erosion of the land surface and the deposition of sediment within a waterway. An "E&S control plan" is required as part of a stormwater management plan. Both the stormwater management plan and E&S control plans are used in developing the state mandated stormwater pollution prevention plan (SWPPP). An E&S control plan may be required for certain projects not requiring a full stormwater management plan, as outlined in this Chapter or determined necessary by the County Engineer.
EROSION CONTROL:	Refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.
EXPOSED SOIL:	All areas of the construction site where the vegetation (trees, shrubs, brush, grasses, etc.) or impervious surface has been removed, thus rendering the soil more prone to erosion. This includes topsoil stockpile areas, borrow areas and disposal areas within the construction site. It does not include temporary stockpiles or surcharge areas of clean sand, gravel, concrete or bituminous, which have less stringent protection. Once soil is exposed, it is considered "exposed soil" until it meets the definition of "final stabilization".
FINAL STABILIZATION:	All soil disturbing activities at the site have been completed, and a uniform (evenly distributed, e.g., without large bare areas) perennial vegetative cover with a density of seventy percent (70%) of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures have been

	employed. Simply sowing grass seed is not considered final stabilization. Where agricultural land is involved, such as when pipelines are built on crop or range land, final stabilization constitutes returning the land to its preconstruction agricultural use or as required by the "Minnesota Stormwater Manual."
FLOODWAY:	The channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the regional flood determined by the use of the 100-year flood profile and other supporting technical data in the flood insurance study.
HYDRIC SOILS:	Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.
HYDROPHYTIC VEGETATION:	Macrophytic (large enough to be observed by the naked eye) plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.
IMPERVIOUS AREA/ IMPERVIOUS SURFACE:	A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface in greater quantities and at an increased rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, storage areas; and concrete, asphalt, or gravel parking lots and roads.
LAND DEVELOPMENT ACTIVITY:	The act of subdivision or platting properties for personal use, adding value or for the purposes of resale. This includes the construction and/or demolition of buildings, structures, roads, parking lots, paved storage areas, and similar facilities.
LAND DISTURBING ACTIVITY:	Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the County's jurisdiction, including construction, clearing and grubbing, grading, excavating, transporting and filling of land. Within the context of this Chapter, "land disturbance activity" does not mean: 1. Minor land disturbance activities such as home gardens and an individual's home landscaping, repairs, and maintenance work, which will not result in sediments entering the stormwater system. 2. Additions or modifications to existing single-family structures that result in creating under one acre of exposed soil or impervious surface and will not result in sediments entering the stormwater system.

3. Construction, installation, and maintenance of trees, fences, signs, posts, poles, and electric, telephone, cable television, utility lines or individual service connections to these utilities, which result in creating under one acre of exposed soil or impervious surface and will not result in sediments entering the stormwater system.

4. Tilling, planting, or harvesting of agricultural, horticultural, or silvicultural (forestry) crops.

5. Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the County's requirements as soon as possible.

LANDOWNER: Any person holding title to or having a divided or undivided interest in land.

MANAGEMENT PRACTICE: A practice or combination of practices to control erosion and water quality degradation.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT: Any permit or requirement enforced pursuant to the Clean Water Act as amended for the purposes of regulating stormwater discharge.

NATURAL WATER: A river, stream, pond, channel or ditch.

NONCOMPLIANCE FEE: The administrative penalty, or fee, for re-inspection of a property which may be assessed to a permittee, landowner, developer or their contractor(s) for noncompliance with the provisions and/or conditions of an approved stormwater plan and/or permit or the violation of any other provisions contained in this Chapter.

OUTLET: Any discharge point, including storm sewers, into a watercourse, pond, ditch, lake or other body of surface or ground water.

OWNER OR OCCUPANT: Any person owning or using a lot, parcel of land, or premises connected to and discharging stormwater into the stormwater system of the County, and who pays for and is legally responsible for the payment of property taxes or charges made against the lot, parcel of land, building or premises, if connected to the stormwater system or who would pay or be legally responsible for such payment.

PERMANENT COVER: Means "final stabilization". Examples include grass, gravel, asphalt, and concrete. See also: Final Stabilization.

PERMANENT DEVELOPMENT: Any buildings, structures, landscaping and related features constructed as part of a development project approved for construction or constructed prior to the passage date hereof.

PERMANENT FACILITIES: Those features of a stormwater management plan which are part of any natural or constructed stormwater system that requires periodic maintenance to retain their operational capabilities. This includes, but is not limited to, storm sewers, infiltration areas, detention areas, channels, streets, etc.

PERMIT: Within the context of this rule a "permit" is a written warrant or license granted for construction, subdivision approval, or to allow land disturbing activities.

PERMITTEE: Any person who applies for and receives approval of stormwater plan and/or permit from the County.

PERSON: Any developer, individual, firm, corporation, partnership, franchise, association, owner, occupant of property, or agency, either public or private.

PROHIBITED DISCHARGE: A non-stormwater discharge into the stormwater system or a natural water, including, but not limited to:

1. Debris or other materials such as grass clippings, vegetative materials, tree branches, earth fill, rocks, concrete chunks, metal, other demolition or construction materials, or structures.

2. The disposal or misuse of chemicals or any other materials that would degrade the quality of waters within the system, including, but not limited to, chemicals (fertilizers, herbicides, pesticides, etc.) or petroleum based products (gasoline, oil, fuels, solvents, paints, etc.).

3. Erosion and sediment originating from a property and deposited onto County streets, private properties or into the stormwater conveyance system, including those areas not specifically covered under an approved stormwater management plan or stormwater permit.

4. Failure to remove sediments transported or tracked onto any road by vehicles or construction traffic by the end of each working day.

5. For the purposes of this Chapter, prohibited discharges do not include the following, unless information is available to indicate otherwise:

Air conditioning condensate
De-chlorinated swimming pool discharges
Discharges from potable water sources
Diverted stream flows
Flows from riparian habitats and wetlands
Footing drains
Foundation drains
Individual residential car washing
Irrigation water
Landscape irrigation
Lawn watering
Rising groundwater
Springs
Street wash water
Uncontaminated groundwater infiltration
Uncontaminated pumped groundwater
Water from crawl space pumps
Water line flushing

PUBLIC STORM SEWER: A storm sewer located entirely within publicly-owned land or easements.

REGIONAL DETENTION: Detention facilities provided to serve an area outside the development boundaries. A "regional detention" site generally receives runoff from multiple stormwater sources and serves an area of approximately one quarter section.

RETENTION FACILITY: A natural or manmade structure that provides for the storage of all or a portion of stormwater runoff.

RUNOFF: The rainfall, snowmelt, dewatering, or irrigation water flowing over the ground surface and into open channels, underground storm sewers, and detention or retention ponds.

SEDIMENT: Solid material or organic material that, in suspension, is being transported or has been moved by air, water, gravity, or ice, and deposited at another location.

SEDIMENT CONTROL: The methods employed to prevent sediment from leaving the development site. Examples of sediment control practices include, but are not limited to, silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

SITE: The entire area included in the legal description of the parcel or other land division on which the land development or land disturbing activity is proposed in the stormwater plan or permit application.

STABILIZE:	To make the site steadfast or firm, minimizing soil movement by mulching and seeding, sodding, landscaping, placing concrete, gravel, or other measures.
STABILIZED:	The exposed ground surface after it has been covered by sod, erosion control blanket, riprap, pavement or other material that prevents erosion. Simply sowing grass seed is not considered stabilization. Ground surfaces may be temporarily or permanently stabilized. See also: Final Stabilization.
STATE:	The State of Minnesota.
STORM SEWER:	A pipe or conduit for carrying stormwater, surface runoff, and drainage, excluding sewage and industrial wastes.
STORMWATER:	Precipitation runoff, stormwater runoff, snowmelt runoff, and any other surface runoff and drainage. "Stormwater" does not include construction site dewatering.
STORMWATER DETENTION:	Temporary storage of stormwater runoff in ponds, parking lots, depressed grassy areas, rooftops, buried underground tanks, etc., for future or controlled release. Used to delay and attenuate flow.
STORMWATER MANAGEMENT:	The planned set of public policies and activities undertaken to regulate runoff and reduce erosion, and maintain or improve water quality under various specified conditions within various portions of the drainage system. It may establish criteria for controlling peak flows and/or runoff volumes, for runoff detention and retention, or for pollution control, and may specify criteria for the relative elevations among various elements of the drainage system. Stormwater management is primarily concerned with limiting future flood damages and environmental impacts due to development, whereas flood control aims at reducing the extent of flooding that occurs under current condition.
STORMWATER MANAGEMENT PERMIT:	A permit issued by the County in accordance with this Chapter after the approval and acceptance of the stormwater management plan. A permit must be acquired prior to initiating land development, land disturbing, or other activities which result in an increase in stormwater quantities, degradation of stormwater quality, or restriction of flow in any storm sewer system, open ditch or natural channel, stormwater easement, water body or wetland outlet within the County's jurisdiction.
STORMWATER MANAGEMENT PLAN:	A document containing the requirements identified by the County in Section 2 of this Chapter, that when implemented will provide solutions to stormwater management problems that may occur as a result of the proposed development or land disturbing activity. A stormwater management permit is not required as part of, but may be included in a stormwater management plan.

STORMWATER MANAGEMENT SYSTEM:	Physical facilities that collect, store, convey, and treat stormwater runoff in urban areas. These facilities normally include detention and retention facilities, streets, storm sewers, inlets, open channels, and special structures, such as inlets, manholes, and energy dissipaters.
STORMWATER POLLUTION PREVENTION PLAN (SWPPP):	A joint stormwater and erosion and sediment control plan that is written as a prerequisite to obtaining an NPDES stormwater permit for construction activity, that when implemented will decrease soil erosion on a parcel of land and off site nonpoint pollution. It involves both temporary and permanent controls. The SWPPP, which draws its information from a stormwater management plan and is typically condensed, must be incorporated into the construction grading plans for the project.
STORMWATER RETENTION:	Storage designed to eliminate or reduce the frequency of subsequent surface discharge. Wet ponds are the most common type of retention storage (though wet ponds may also be used for detention storage).
STRUCTURE:	Anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable structures, earthen structures, roads, parking lots, and paved storage areas.
SUBDIVISION:	Any tract of land divided into building lots for private, public, commercial, industrial, etc., development for the purpose of sale, rent, or lease, including planned unit development.
SYSTEM CHARGE OR ASSESSMENT:	A charge for connecting an outlet to a regional stormwater management facility, typically a pond. The charge is normally assessed to recover the proportional cost of constructing a regional pond or stormwater treatment facility.
TEMPORARY PROTECTION:	Short-term methods employed to prevent erosion. Examples of such protection are straw, mulch, erosion control blankets, wood chips, and erosion netting.
UNDEVELOPED LAND:	Land that in its current state has not been impacted by significant land disturbance activities, annexed into a city or subdivided into multiple ownership lots and is typically zoned agricultural.
URBANIZED AREA:	The Adjusted Urbanized Boundary as determined by the Fargo-Moorhead Metropolitan Council of Governments, utilizing the Adjusted Urban Area Map in conjunction with the most current United States Census.
USER:	Any person who discharges, causes, or permits the discharge of stormwater into the County's stormwater management system.

VIOLATION: The willful or negligent act of noncompliance with the conditions attached to an approved stormwater plan and/or permit, or any other provisions contained in this Chapter, subject to enforcement and penalty or noncompliance fees.

WATERCOURSE: The natural path for the flow of water where there is sufficient natural and accustomed runoff to form and maintain a distinct and defined channel or an open channel facility that has been constructed for such purpose. This shall include any easements obtained for the purposes of runoff conveyance.

WATERS OF THE STATE: All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

WATERSHED MASTER PLAN: The plan that an Engineer/designer formulates to manage urban stormwater runoff for a particular project or drainage area. It typically addresses such subjects as characterization of the existing and future site development, land use, and grading plan, peak rates of runoff, flow duration, runoff volumes for various return frequencies, locations, criteria and sizes of detention or retention ponds and conveyances; runoff control features; land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations, and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater recharge. It may be submitted to regulatory officials for their review for adoption.

WET POND: A retention facility which includes a permanent pool of water used for the purposes of providing for the treatment of stormwater runoff.

WETLANDS: Lands transitional between terrestrial and aquatic systems (excluding drainage ditch bottoms) where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three (3) attributes:

1. A predominance of hydric soils;

2. Are inundated or saturated by the surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

3. Under normal circumstances support the prevalence of such vegetation.

C. SCOPE:

1. Prohibited Discharges: It shall be considered an offense for any person to cause or allow a prohibited discharge into Waters of the State, including the County, City, or Watershed stormwater system, or any natural water.

2. Land Disturbing Activity Requiring A Stormwater Management Plan: Any person, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision proposing subdivision or plat approval, a building permit or any land disturbance activity within the County must submit a stormwater management plan and/or a stormwater permit application to the County Planning and Zoning Director unless a waiver is provided in accordance with this Chapter.

   No subdivision or plat approval shall be issued until a stormwater management plan or a waiver of the approval requirements has been obtained in strict conformance with the provisions of this Chapter. No building permit shall be issued until approval of a stormwater permit or a waiver of the permit requirements has been obtained in strict conformance with the provisions of this Chapter. No land shall be disturbed until the permit is approved by the County and conforms to the standards set forth herein.

   A stormwater management plan may also be required in some situations as determined by the County Engineer (i.e., development within an existing subdivision with documented flooding problems associated with stormwater runoff, or development occurring on a large lot within a subdivision where a watershed master plan was previously developed).

   Exemptions to the stormwater management plan and/or stormwater permit requirements of this Chapter include any part of a subdivision that is included in a plat that has been approved by the County Planning and Zoning Board and recorded with the register of deeds on or before the effective date of this Chapter. A stormwater permit for land disturbing activities on such properties may still be required, as determined by the County Engineer, and such activities are still subject to other compliance requirements in accordance with this Chapter:

   a. A stormwater management plan is not required for individual lots or properties located within a subdivision or plat for which a stormwater management plan has already been approved or in areas included within a watershed master plan area. This exemption is subject to the County Engineer's consideration and approval. Stormwater permits, however, are required subject to the other exemptions noted in this Chapter;

   b. A parcel for which a building permit has been approved on or before the effective date of this Chapter and an NPDES permit was not required;

   c. The installation of any of the following: a fence, sign, trees or shrubs, telephone and electric poles and other kinds of posts or poles, except where such uses are prohibited by easement or stormwater conveyance requirements;

   d. Any land disturbance activity not associated with building construction that will affect less than one acre of undeveloped land. A stormwater permit will not be

required unless the proposed project will result in sediments entering the stormwater system;

e. Emergency work to protect life, limb, or property.

3. Land Disturbing Activity Involving the Construction of a Single-Family or Two-Family Dwelling: Construction of single-family or two-family dwellings must comply with in-place BMPs and any existing permitted SWPPP for the subdivision, including NPDES permit requirements. A stormwater permit and compliance with the single-family residential construction erosion/sediment control standards is also required.

4. Installation and Repair of Utility Service Lines:

a. At project sites that require permit coverage where a utility contractor is not the site owner or operator, each utility contractor must comply with the provisions of the stormwater pollution prevention plan (SWPPP) for the project their construction activities will impact. Each utility contractor must ensure that their activities do not render ineffective, the erosion prevention and sediment control best management practices (BMPs) for the site. Should a utility contractor damage or render ineffective any temporary BMPs for the site, the utility contractor must repair or replace such BMPs within twenty four (24) hours upon discovery of the damaged BMP. Should a utility contractor damage or render ineffective any permanent BMPs for the site, the utility contractor must repair or replace such BMPs within seven (7) days of completion of utility installation on the site. The utility contractor will be responsible for a BMP that includes mulch with seed or sod and must provide maintenance, including any watering necessary to ensure the establishment of the sod or mulch with seed. The establishment period for a BMP that includes sod or mulch with seed shall be thirty (30) days, after which, if the area does not have an acceptable level of establishment, the utility contractor must re-sod or reseed until satisfactory establishment is achieved.

b. At project sites where a utility contractor is the site owner or operator, and the utility company disturbs one or more acres of soil for the purpose of installation of utility service lines, including, but not limited to, residential electric, gas, telephone and cable lines, the utility company must apply for permit coverage from the County and State prior to commencement of construction.

c. Utility contractors working in a street right of way to repair existing or install new utilities and disturbing less than one acre shall obtain a utility permit before commencing work. The utility contractor is required to provide appropriate inlet protection and sediment control during the course of the work so as to ensure the storm sewer system is protected from pollution. The utility contractor is also required to provide street sweeping as necessary to ensure that sediments resulting from their activity do not enter the stormwater system following construction. The street shall be swept within one working day of completion of utility installation on the site. All disturbed vegetation shall be replaced with mulch with seed or sod within seven (7) days of completion of utility installation on the site. The County will provide guidance regarding acceptable temporary protection BMPs for inlets

and methods to stabilize the exposed soil areas until they meet the definition of "final stabilization".

d. Waivers: The County Engineer may waive any requirement of this Section upon making a finding that compliance with the requirement will involve an unnecessary hardship, and the waiver of such requirement is not contrary to the objectives in this Chapter. The County Engineer may require as a condition of the waiver, such dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and requirements.

D. MANAGEMENT OF SITE VEGETATION:

Any landowner shall provide for the installation and maintenance of vegetation on their property in accordance with the following criteria, regardless as to whether or not a stormwater management plan or stormwater permit has been approved or is necessary under this Chapter:

1. Use of Impervious Surfaces: No person shall apply items included in the definition of "prohibited discharge" on impervious surfaces or within stormwater drainage systems with impervious liners or conduits.

2. Unimproved Land Areas: Except for driveways, sidewalks, patios, areas occupied by structures, landscaped areas, or areas that have been otherwise improved, all areas shall be covered by plants or vegetative growth.

3. Use Of Pervious Surfaces: No person shall deposit grass clippings, leaves, or other vegetative materials, with the exception of normal mowing or weed control, within natural or manmade watercourses, wetlands, or within wetland buffer areas. No person shall deposit items included in the definition of "prohibited discharge" except as noted above.

Failure to comply with this Section shall constitute a violation and subject the landowner to the enforcement provisions, penalties and noncompliance fees outlined in Section 6 of this Chapter.

SECTION 2. STORMWATER MANAGEMENT PLAN; APPLICATION AND REVIEW

A. APPLICATION AND CONTENT:

A written stormwater management plan application shall be filed with the County Planning and Zoning Director as required by this Section. The application shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted in the underlying zoning district, and adequate evidence showing the proposed use will conform to the standards set forth in this Section and the "Minnesota Stormwater Manual" (manual). Prior to applying for approval of a stormwater management plan, it is recommended that the applicant have the stormwater management plan reviewed by any affected public agencies. While it is not necessary it is desirable in some cases to combine the stormwater management plan and stormwater permit submittals in a single application.

Two (2) sets of legible copies of the drawings and required information shall be submitted to the County Planning and Zoning Director and shall be accompanied by a receipt from the County to document the

payment of all required fees for processing and approval as set forth in Subsection (B) of this Section. Plans shall be prepared to a scale appropriate to the site of the project and suitable for performing the review.

At a minimum, the stormwater management plan shall contain the information outlined in the manual. A written stormwater management report discussing the pre- and post-development hydrologic and hydraulic analysis, erosion and sedimentation control during and after construction, protective measures for proposed and existing structures, and water quality concerns shall also be provided. The contents of this report shall be in accordance with the recommended format in the manual. For additional information refer to Section 3 of this Chapter.

B. APPLICATION FEE:

A processing and approval fee adopted by the County Board shall accompany all applications for stormwater management plan approval.

C. PROCESS:

A stormwater management plan meeting the requirements of this section shall be submitted to the County Planning and Zoning Director. The plan will then be forwarded to the County Engineer for review and to determine its compliance with the standards as outlined in Section 3 of this Chapter. The County Engineer shall approve, approve with conditions, or deny the stormwater management plan. The County Engineer shall communicate any decision with the County Planning and Zoning Director. Prior to initiating construction as outlined in the stormwater management plan, the applicant must also obtain a stormwater permit.

D. DURATION:

Approval of any plan submitted under the provisions of this Chapter shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of approval, the applicant makes a written request to the County Planning and Zoning Director for an extension of time to commence construction setting forth the reasons for the requested extension, the County Planning and Zoning Director may grant one extension of not greater than one year. The County Planning and Zoning Director shall acknowledge receipt of any request and shall make a decision on the extension within thirty (30) days of receipt. Any plan may be revised following the same procedure for an original approval. Provided, the County Planning and Zoning Director may waive all or part of the application fee if the revision is minor. Any denied or expired application may be resubmitted with additional information addressing the concerns contained within the denial or the reason why the original plan was allowed to expire. The resubmitted application shall be subject to all applicable fees and review time lines as if it were a new application.

E. CONDITIONS OF APPROVAL:

A stormwater management plan may be approved subject to compliance with conditions reasonable and necessary to ensure that the requirements contained in this Chapter are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to ensure proper buffering, require the acquisition or dedication of certain lands or easements. The County Engineer may specify special requirements or conditions for specific major or

minor watersheds within the County's jurisdiction. The nature of these requirements will be subject to the unique environmental and natural resource environment of each sub-watershed. Approval of a plan shall bind the applicant to perform and comply with all the requirements and conditions of the plan prior to commencing or concurrent with any land disturbing activities.

SECTION 3. STORMWATER MANAGEMENT PLAN; APPROVAL STANDARDS

A. GENERAL:

This Section describes the approval standards used to evaluate a proposed stormwater management plan. The County Engineer shall not approve a stormwater management plan which fails to meet these standards. Other applicable standards, such as state and federal standards, shall also apply. If the standards of different agencies conflict, the more restrictive standards shall apply.

It shall be the applicant's responsibility to obtain any required permits from other governmental agencies having any jurisdictional authority over the work to be performed. Typically, such agencies include, but are not limited to, the Buffalo Red River Watershed District (BRRWD), the City of Moorhead, the City of Dilworth, the Minnesota Department of Natural Resources (DNR), the Minnesota Department of Transportation (MnDOT), the Minnesota Pollution Control Agency (MPCA), the State Historic Preservation Office (SHPO), the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency (EPA), Federal Emergency Management Agency (FEMA), and others.

B. STORMWATER MANUAL:

The "Minnesota Stormwater Manual" (manual) contains the principal standards and design criteria for developing an effective and acceptable stormwater management plan. The manual contains detailed criteria for hydrologic evaluations, the design of stormwater management system facility components, water quality protection standards, and instructions for the development of an erosion and sedimentation control plan. Upon request, the County will provide requirements for easements and rights of way, standard forms to be used, and standard construction details approved by the County.

C. MODELS/METHODOLOGIES/COMPUTATIONS:

Other than those outlined in the manual, any hydrologic models and/or design methodologies used to determine runoff conditions and to analyze stormwater management structures and facilities, shall be approved in advance by the County Engineer. All stormwater management plans, drawings, specifications, and computations for stormwater management facilities submitted for review shall be signed by a professional engineer registered in the State of Minnesota. This requirement will be met as part of a properly-completed stormwater management plan.

D. STORMWATER MANAGEMENT CRITERIA FOR PERMANENT FACILITIES:

Stormwater control facilities included as part of the final design for a permanent development shall be addressed in the stormwater management plan and shall meet the following criteria:

1. Pre- Versus Post-hydrological Response of Site: An applicant shall install or construct, on or for the proposed land disturbing activity or development activity, all stormwater management facilities necessary to manage runoff such that increases in flow under the design conditions will not occur that could exceed the capacity of the outlet, or the stormwater management system,

into which the site discharges or that would cause the stormwater management system to be overloaded or accelerate channel erosion as a result of the proposed land disturbing activity or development activity. Under no circumstances shall the 2-, 10-, or 100-year developed peak flow exceed the 2-, 10-, or 100-year existing peak flow without prior written approval by the County Engineer. For regional detention or stormwater management system, the County Engineer shall recommend a proposed system charge or assessment to be approved by the County Board based upon an approved watershed master plan and an analysis of required drainage systems, projected costs and flood protection benefits provided to those properties directly or indirectly impacted by the regional detention or stormwater management system

2. Natural Features of Site: The applicant shall give consideration to reducing the need for stormwater management system facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional water flow without compromising the integrity or quality of these natural features.

3. Stormwater Management Strategies: The following stormwater management practices shall be investigated when developing a stormwater management plan:

    a. Natural infiltration of precipitation and runoff on site, if suitable soil profiles can be created during site grading. The purpose of this strategy is to encourage the development of a stormwater management plan that encourages natural infiltration. This includes providing as much natural or vegetated area on the site as possible, minimizing impervious surfaces, and directing runoff to vegetated areas rather than onto adjoining streets, storm sewers and ditches;

    b. Flow attenuation by use of open vegetated swales and natural depressions;

    c. Stormwater detention facilities;

    d. Stormwater retention facilities (on a case by case basis); and

    e. Other facilities requested by the County Engineer.

A combination of successive practices may be used to achieve the applicable minimum control requirements specified. Justification shall be provided by the applicant for the method selected.

4. Adequacy of Outlets: The adequacy of any outlet used as a discharge point for proposed stormwater management system must be assessed and documented to the satisfaction of the County Engineer. To the extent practicable, hydraulic capacities of downstream natural channels, storm sewer systems, or streets shall be evaluated to determine if they have sufficient conveyance capacity to receive and accommodate post-development runoff discharges and volumes without causing increased property damages or any increase in the established base flood elevation. If a floodplain or floodway has not been established by the Federal Emergency Management Agency (FEMA), the applicant shall provide a documented analysis and estimate of the base flood elevation as certified by a Professional Engineer registered in the State of Minnesota. In addition, projected velocities in downstream natural or manmade channels shall not exceed that which is reasonably anticipated to cause erosion unless protective measures acceptable to the County Engineer are approved and installed as part of the stormwater

management plan. The assessment of outlet adequacy shall be included in the stormwater management plan.

5. Stormwater Detention/Retention Facilities: Stormwater detention or retention facilities proposed to be constructed in the stormwater management plan shall be designed according to the most current technology as reflected in the Minnesota Stormwater Manual.

E. OPERATION, MAINTENANCE AND INSPECTION:

All stormwater management systems shall be designed to minimize the need for maintenance, to provide easy vehicle (typically 8 feet or wider) and personnel access for maintenance purposes, and to be structurally sound. All stormwater management systems shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in stormwater runoff. The County Engineer may inspect all public and private stormwater management systems at any time. Inspection records will be kept on file at the County Engineer's office. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the stormwater management system for inspection and maintenance purposes. The County Engineer shall retain enforcement powers for assuring adequate operation and maintenance activities through permit conditions, penalties, noncompliance orders and fees.

The County Engineer or his/her designated representative shall inspect all stormwater management systems during construction, during the first year of operation and at least once every five (5) years thereafter. The County will keep all inspection records on file for a period of three (3) years beyond the NPDES permit period.

F. EASEMENTS:

Easements may be required as conditions to the approval of a stormwater management plan and/or permit. If a stormwater management plan involves directing some or all of the site's runoff to a drainage easement, the applicant or his designated representative shall obtain from the property owners any necessary easements or other property interests concerning the flowing of such water.

G. PLAN APPLICABILITY:

A stormwater management plan approval issued under this Section runs with the land and is a condition of plat or development approval. Any landowner or subsequent landowner of any parcel within the plat or development area must comply with the plan or any approval, condition, revision or modification of the plan. Failure to comply with this plan shall constitute a violation and subject the permittee, developer, and/or landowner to the enforcement provisions, penalties and noncompliance fees.

H. PLAN AMENDMENTS:

Stormwater management plans may be amended only by a written request submitted to the County Engineer. This request shall contain the reason for the change and documentation related to any additional change in projected impacts, which may result from amendment approval. Amendment requests submitted prior to final approval of a plan application shall be considered part of the original submittal. Amendment requests filed after plan approval shall be considered following the same procedures as if it were a new application and subject to all applicable fees and review periods. The County Engineer may waive all or part of the fees if the amendment is minor.

SECTION 4. STORMWATER PERMITS

A. PERMITS REQUIRED:

It is unlawful to initiate any land development activity, land disturbing activity, or other activities which may result in an increase in stormwater quantities, degradation of stormwater quality, or restriction of flow in any storm sewer system, open ditch or natural channel, stormwater easement, water body, or wetland outlet within the jurisdiction of the County, without having first complied with the terms of this Section. Other activities include those outlined in Section 1(C) of this Chapter. For any land disturbing projects greater than one acre, a stormwater permit shall be required.

1. Permit Application: All persons subject to meeting the requirements and needing to obtain a stormwater permit shall complete and file with the County Planning and Zoning Director an application in the form prescribed and accompanied by a fee established by the County Board. The permit application may need to be accompanied by a stormwater management plan as prescribed under section B of this Chapter, if such a plan has not been previously approved. Permit applications may be denied if the applicant is not in compliance on another stormwater permit currently in effect.

2. Stormwater Permit: After review, the County Engineer shall approve or deny the permit. Activities that disturb one acre of land or more must also obtain a Minnesota Pollution Control Agency NPDES General Stormwater Permit for Construction Activity. Commencing earthwork on a project prior to plan or permit approval is considered a violation of this Chapter.

3. Permit Delays: The County Engineer may withhold granting approval of a stormwater permit until all issues associated with the site are resolved to the satisfaction of the County Engineer. Permits may be conditioned with delays such that work cannot begin until a specified date or until after the site is inspected.

4. Permit Conditions: Permits issued are subject to all provisions of this section and all other applicable regulations, user charges and fees established by the County Board. Permits may contain, but are not limited to, any of the following conditions:

    a. Limits on the maximum rate of allowable stormwater discharge;

    b. Requirements for water quality of stormwater discharge;

    c. Requirements for the installation, operation and maintenance of stormwater facilities including detention/retention or other treatment facilities;

    d. Requirements for erosion and sediment control, including measures to be implemented and other procedures necessary to protect the stormwater system;

    e. Compliance schedule;

    f. Requirements for notification to and acceptance by the County Engineer of any land disturbing activities which have the potential for increasing the rate of stormwater discharge resulting in degradation of stormwater quality;

g. Easements as outlined in Section 3(F) of this Chapter; and

h. Other conditions as deemed appropriate by the County Engineer to ensure compliance with this Chapter.

5. Permit Duration: Permits must be issued for a time period specified by the County Engineer. The applicant, if necessary, shall apply for permit renewal a minimum of ninety (90) days prior to the expiration of the applicant's existing permit. The terms and conditions of a permit are subject to modification by the County Engineer during the term of the permit as set forth in subsection A(6) of this Section. Any denied or expired application may be resubmitted with additional information addressing the concerns contained within the denial or the reason why the original permit was allowed to expire. The resubmitted application shall be subject to all applicable fees and review time lines as if it were a new application.

6. Permit Modification: The County Engineer for just cause upon thirty (30) days' notice may modify stormwater permits. Just cause shall include, but not be limited to:

a. Promulgation of new federal, state or local regulatory requirements;

b. Changes in the requirements of this Chapter;

c. Changes in the process used by the permittee or changes in discharge rate, volume, or character; and

d. Changes in the design or capability of receiving stormwater systems.

The applicant must be informed of any proposed changes in the permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

7. Permit Amendments: Stormwater permits may be amended (by applicant) only by a written request submitted by the permittee to the County Engineer. This request shall contain the reason for the change and documentation related to any additional impacts which may result from amendment approval. Amendment requests submitted prior to issuance of a stormwater permit shall be considered part of the original submittal. Amendment requests filed after permit approval shall be considered and reviewed under the same procedures and guidelines used for the stormwater permit applications under this section. Depending on the extent of the amendment, the County Engineer may waive any additional fees for a permit amendment review.

8. Permit Transfer: A permit runs with the property it covers, until the permitted activities are completed, and is transferable to new landowners in its entirety or by parcel, with each parcel being subject to the permit and any conditions which apply to that parcel. Land transfers must be reported to the County Engineer within seven (7) days of the transfer. This section refers to County-issued permits and does not release the applicant or owner from transfer requirements of an NPDES permit including, but not limited to, a notice of termination/permit modification.

9. Monitoring Facilities: The County Engineer may require the applicant to provide and operate at the applicant's expense a monitoring facility to allow inspection, sampling, and flow measurements of each stormwater system component. Where at all possible, the monitoring

facility shall be located on the applicant's property as opposed to being located on public rights of way. Ample room must be allowed for accurate flow measuring and sampling and the facility shall be kept in a safe and proper operating condition.

10. Inspection: The County Engineer may inspect the stormwater management system of any permittee to determine compliance with the requirements of this Chapter. The applicant shall promptly allow the County and their authorized representatives, upon presentation of credentials to:

    a. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, inspections or surveys;

    b. Bring such equipment upon the permitted site as is necessary to conduct such inspections, surveys and investigations;

    c. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site;

    d. Inspect the stormwater pollution control measures; and/or

    e. Sample and monitor any items or activities pertaining to stormwater pollution control measures.

    Any temporary or permanent obstruction to the safe and easy access of such an inspection shall be promptly removed upon the inspector's request. The cost of providing such access shall be borne by the permittee.

11. Inspections of the Stormwater Pollution Prevention Plan's Measures: At a minimum, such inspections shall be done weekly by the permittee (general contractor, developer or the developer's designated representative), and within twenty four (24) hours after every storm or snowmelt event large enough to result in runoff from the site (approximately 0.5 inch or more in 24 hours). At a minimum, these inspections shall be done during active construction.

B. CONSTRUCTION PLANS AND SPECIFICATIONS:

1. The plans and specifications prepared for the construction of the stormwater management system must be:

    a. Consistent with the Stormwater Management Plan approved by the County Engineer, including any special provisions or conditions;

    b. In conformance with the requirements of Clay County’s specifications, "Minnesota Stormwater Manual" and any other necessary permits required and issued by other governmental agencies;

    c. Signed by a professional engineer registered in the State of Minnesota;

    d. Submitted to the County Engineer for approval; and

e. Approved by the County Engineer prior to commencing construction.

2. The construction grading and erosion/sediment control plans, in a format acceptable to the County Engineer, shall contain a drawing or drawings delineating the features incorporated into the Stormwater Pollution Prevention Plan (SWPPP) including details of perimeter protection, construction phasing, storm drain inlet protection, erosion control measures, temporary and final stabilization measures, including all BMPs. In addition the construction specifications shall contain technical provisions describing erosion, sedimentation, and water control measures to be utilized during and after construction as well as to define the entities responsible for the installation and maintenance of the BMPs. The project SWPPP must be incorporated into the construction specification documents.

C. CONSTRUCTION ACTIVITIES:

Construction operations must at a minimum comply with any applicable federal or state permit and SWPPP in addition to the following best management practices:

1. Site Dewatering: Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydrocyclones, soil concentrators or other appropriate controls as deemed necessary. Water may not be discharged in a manner that causes erosion, sedimentation, or flooding on the site, on downstream properties, in the receiving channels, or in any wetland.

2. Waste and Material Disposal: All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, petroleum based products, paints, toxic materials, or other hazardous materials) shall be properly disposed of off-site and shall not be allowed to be carried by runoff into a receiving channel, storm sewer system, or wetland.

3. Tracking Management: Each site shall have roads, access drives and parking areas of sufficient width, length and surfacing to minimize sediment from being tracked onto public or private roadways. Any material deposited by vehicles or other construction equipment onto a public or private road shall be removed (not by flushing) before the end of each working day.

4. Water Quality Protection: The construction contractor, including the general contractor and all subcontractors, shall be required to control oil and fuel spills and chemical discharges to prevent such spills or discharges from entering any watercourse, sump, sewer system, water body, or wetland.

5. Site Erosion and Sedimentation Control: Construction operations must include erosion and sedimentation control measures meeting accepted design criteria, standards and specifications contained in the "Minnesota Stormwater Manual" or other standards determined by the County Engineer.

6. Concrete Washout Area: All liquids and solid waste generated by concrete washout operations must be contained in a leak proof containment facility or impermeable liner. A compacted clay liner that does not allow washout liquids to enter groundwater is considered an impermeable liner. A sign must be installed adjacent to each washout facility to inform concrete equipment operators to utilize the proper facilities.

D. FINAL STORMWATER MANAGEMENT PLAN:

Upon completion of all required construction activities, the permittee shall submit to the County Engineer a final stormwater management plan to document any changes or material modifications to the original stormwater management plan concept. The final stormwater management plan shall contain record drawings showing the final configuration for all improvements as constructed. A professional engineer registered in the State of Minnesota shall certify the final stormwater management plan and record drawings. If no significant or material changes occurred between the approved plan and final construction, the record drawings need not be submitted to the County Engineer. The permittee, however, is responsible to retain copies of said drawings and provide them to the County Engineer upon request. Failure to provide these drawings upon written request constitutes a violation of this Chapter.

SECTION 5. SUSPENSIONS, REVOCATIONS AND STOP WORK ORDERS

A. STORMWATER VIOLATIONS AND REPORTING:

1. Stormwater management plan, stormwater permit, and non-permit related stormwater violations include, but are not limited to:

    a. Commencing site grading or preparation work without first having obtained an NPDES stormwater permit for construction activity, or a County stormwater permit.

    b. Noncompliance with the requirements or conditions attached to an approved SWPPP of an NPDES stormwater permit for construction activity, stormwater management plan, a county stormwater permit, or other standards established by the County Engineer, under authority of the County.

    c. The causing or allowing of a prohibited discharge in the county stormwater system, a natural watercourse, stormwater easement, stream or river.

    d. Failure to remove sediments transported or tracked onto county streets by vehicles or construction traffic by the end of each working day.

    e. Failure to install and maintain the erosion control measures (BMPs) on a construction site as outlined in the approved stormwater permit, SWPPP and its amendments, or other standards established by the County Engineer.

    f. Other violations or issues as noted or described throughout this Chapter.

2. The County Engineer shall document the reporting of a violation in writing. Such violations may be obtained via a site inspection or a public complaint followed by a site inspection. At a minimum the complaint file shall contain the name and address of the owner, date, time and nature of the violation as well as other information as deemed necessary to document site conditions, including photos and personal conversation records. In the case of a public complaint the file shall also, if voluntarily provided, contain the name, address and phone number of the individual filing the complaint. In addition, the complaint file shall contain records documenting subsequent site inspections, compliance actions and a memo outlining the

determination of the County Engineer and any enforcement action taken and/or any noncompliance fees levied.

B. EMERGENCY SUSPENSION:

The County Engineer may for cause order the suspension of a stormwater management plan, or a stormwater permit when the County Engineer determines that an actual or threatened discharge presents or may present an imminent or substantial danger to the health or welfare of persons downstream, or substantial danger to the environment. If such permits are suspended, all work in the area covered by the permit shall cease immediately. If any person is notified of such suspension and then fails to comply voluntarily with the suspension order, the County shall commence whatever steps are necessary to obtain compliance. The County Engineer may reinstate the stormwater management plan, or stormwater permit upon proof of compliance with all plan or permit conditions. The County Engineer may also order the immediate suspension of all work if a person or entity is conducting an activity for which a permit is needed without first obtaining the appropriate permit. The suspension shall remain in effect until the required permit(s) is obtained.

Whenever the County Engineer orders the suspension of a plan or permit and/or orders all work to stop pursuant to the emergency provisions of this Section, the County Engineer shall serve notice on the landowner and/or permittee personally, or by registered or certified mail. The landowner and/or permittee has the right to an informal hearing before the County Engineer upon request made in writing and filed with the County Engineer. The informal hearing must be held within five (5) days of the request. Following the hearing, the County Engineer may affirm, modify or rescind the order.

Any person dissatisfied with an order the County Engineer issued pursuant to this Section may request a hearing pursuant to Subsection (E) of this Section by filing a written request for a hearing with the County Engineer, within fifteen (15) days of receipt of the order. The hearing must be held within ten (10) days of receipt of the request. A request for a hearing filed pursuant to this section does not stay the order while the hearing is pending.

C. NON-EMERGENCY REVOCATION OF A PERMIT:

1. A stormwater management plan or stormwater permit may be revoked following notice. An opportunity for a hearing in accordance with Subsections (D) and (E) of this Section will be provided. The County Engineer may revoke a plan or permit for cause, including, but not limited to:

    a. Violation of any terms or conditions of the applicable plan or permit;

    b. False statements on any required reports and applications;

    c. Obtaining a plan or permit by misrepresentation or failure to disclose fully all relevant facts; or

    d. Any other violation of this Chapter or related ordinance.

2. The County Engineer may revoke a stormwater management plan or stormwater permit and order a temporary work stoppage to bring a project into compliance. Notice of such an order shall be given and a hearing opportunity provided in accordance with Subsections (D) and (E) of

this Section. Under a revoked plan or permit no additional permit approvals (i.e., utility, etc.) shall be issued for any properties within the area included within the plan or permit boundaries until approved by the County Engineer. In addition the County may deny new permits (i.e., stormwater, utility, etc.) to the permittee or landowner in violation for projects in other locations until current permits are brought into compliance.

D. NOTIFICATION:

Whenever the County Engineer finds that any person has violated or is violating this Chapter, stormwater management plan or stormwater permit and/or its conditions, or any prohibition, limitation or requirement contained herein, the County Engineer shall serve upon such person a written notice stating the nature of the violation. Within seven (7) days of the date of the notice, unless a shorter time frame is set by the County Engineer due to the nature of the violation, a plan satisfactory to the Engineer for correction thereof must be submitted to the County Engineer. If a satisfactory plan is not submitted in a timely manner, or the terms of such plan are not followed, the County Engineer may order all work in the affected area to cease until submittal of such a plan and compliance with the plan is happening. If a person disagrees with the determination of the County Engineer, that person, within fifteen (15) days of the order of the County Engineer, may request a hearing as provided in Subsection (E) of this Section.

E. HEARING:

If a person requests a hearing to contest the order of the County Engineer, a notice of hearing must be served on the person appealing the order, specifying the time and place of a hearing to be held regarding the order of the County Engineer, and directing the person appealing to show cause why the order of the County Engineer should not be upheld. Unless the Engineer has suspended the permit or ordered work to stop pursuant to Subsection (B) of this Section, any order stopping all work shall be stayed until after the hearing. The notice must be served personally or by registered or certified mail at least five (5) days before the hearing. The evidence submitted at the hearing shall be considered by the County Administrator or his/her designee, who then shall either uphold, modify, or rescind the order of the County Engineer. An appeal of the decision may be taken to the district court according to law. Provided, that if the County Administrator or his/her designee upholds the order stopping work, such work suspension shall not be stayed as a result of the appeal to the district court.

F. LEGAL ACTION:

The discharge of deposited or eroded materials onto public rights of way or public storm sewer systems within the County of Clay shall be considered an offense and may result in an order to remove such materials. Removal of such materials shall be at the landowner's and/or permittee's expense based on the properties from which they originated. The landowner and/or permittee shall have three (3) days after receiving the notice to remove these materials. If such materials are not removed, others may remove them under the County Engineer's direction and any associated costs shall be the responsibility of the landowner or permittee and, if unpaid within ninety (90) days, may be recommended for assessment action by the County Board against property of the violator.

If any person commences any land disturbing activities which result in increased stormwater quantity or stormwater quality degradation into the County's stormwater management system contrary to the provisions of this Chapter, federal or state requirements or any order of the County Engineer, the County Attorney may commence action for appropriate legal and/or equitable relief including administrative or criminal penalties.

SECTION 6. ENFORCEMENT

A. ENFORCEMENT, PENALTY AND NONCOMPLIANCE FEES:

Any person who is found to have violated an order of the County Engineer made in accordance with this Section, or who has failed to comply with any provision of this Chapter and the orders, rules, regulations and permits issued hereunder, is guilty of a violation. Each day on which a non-compliance occurs or continues to exist shall be deemed a separate and distinct violation, punishable as proscribed by the Clay County Administrative Penalty Policy (Clay County Ordinance 2010-3). All land use and stormwater permits may be suspended until the applicant has corrected the violation. Re-inspection fees, which may also be imposed for violation of this Chapter, shall be approved by the County Board.

B. COSTS OF DAMAGE:

Any person violating any of the provisions of this Chapter or who initiates an activity which causes a deposit, obstruction, or damage or other impairment to the county's stormwater management system is liable to the County for any expense, loss, or damage caused by the violation or the discharge. The County may bill the person violating this Chapter the costs for any cleaning, repair or replacement work caused by the violation of stormwater discharge, and if unpaid within ninety (90) days may result in assessment of such costs against the violator's property.

C. COUNTY ATTORNEY FEES AND COSTS:

In addition to the civil penalties provided herein, the County may recover reasonable attorney fees, court costs, court reporter fees, and other expenses of litigation by appropriate action against the person found to have violated this Chapter or the orders, rules, regulations and permits issued hereunder.

D. FALSIFYING INFORMATION:

Any person who knowingly makes any false statements, representations, or certification in any applicable record, report, plan, permit or other document filed or required to be maintained pursuant to this Chapter, or who knowingly falsifies, tampers with, or knowingly renders inaccurate any monitoring devices or method required under this Chapter shall be guilty of an violation, punishable as proscribed by the Clay County Administrative Penalty Policy (Clay County Ordinance 2010-3).

E. PENALTIES:

Any person violating any provision of this Chapter, in addition to other sanctions set forth above, may be charged with a criminal misdemeanor, and if convicted may be penalized in accordance with the provisions of section 1-4-1 of this Code, or alternatively, may be charged with an administrative violation pursuant to the Clay County Administrative Policy (Clay County Ordinance 2010-3).

SECTION 7. STORMWATER UTILITY AND STORMWATER MANAGEMENT FEE SYSTEM

A. FINDINGS:

1. The County maintains a system of underground and surface stormwater management facilities including, but not limited to, inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, and other components as well as natural waterways.

2. The stormwater system in the County needs regular maintenance and improvements.

3. Water quality of the Red River of the North can be degraded due to erosion and the discharge of nutrients, metals, oil, grease, toxic materials, and other substances into and through the stormwater system.

4. The public health, safety, and welfare can be adversely affected by periodic poor water quality within the Red River of the North and flooding that results from inadequate management of both the quality and quantity of stormwater.

5. All real property in the County's Urbanized Area either uses or benefits from the maintenance of the stormwater system.

6. The extent of use of the stormwater system by each property is dependent on factors that influence runoff, including land use and the amount of impervious surface on the property.

7. The costs of improving, maintaining, operating, and monitoring the stormwater system should be allocated, to the extent practicable, to all property owners based on the impact of runoff from the impervious areas of their property on the stormwater management system.

8. Management of the stormwater system to protect the public health, safety, and welfare requires adequate revenues, and it is in the interest of the public to finance stormwater management adequately with a user charge system that is reasonable and equitable so that each user of the system pays to the extent to which he contributes to the need for it.

B. ADMINISTRATION AND BUDGET:

The County Engineer, under the supervision and authority delegated by the County Administrator, shall advise the County Administrator and County Board on matters related to the stormwater management program and to make recommendations to the County Administrator and County Board concerning the adoption of ordinances, resolutions, policies, guidelines and regulations in furtherance of the objectives of the stormwater management program. The County Engineer shall undertake the following activities to implement a stormwater management program:

1. Prepare studies, acquire data, prepare master plans, analyze policies or undertake such other planning and analyses as may be needed to address concerns related to stormwater within the County and to further the objectives of the stormwater management program, and to undertake activities designed to communicate, educate and involve the public and citizens in addressing these issues or in understanding and abiding by the elements of the stormwater management program.

2. Design, construct, operate, maintain, expand, or replace any element or elements of the public storm sewer system, including recommending the acquisition of easements by eminent domain, and recommending acquisition of title or easements other than by eminent domain, over any real or personal property that is part of, will become part of, or will protect the public storm sewer system, or is necessary or convenient for the implementation of the stormwater management program.

3. Regulate, establish standards, review, inspect the design, construction or operation and maintenance of any stormwater management system that is under the control of private owners, whether or not such systems are required or intended for dedication to the public sewer system, when such systems have the potential to impact, enhance, damage, obstruct or affect the operation and maintenance of the public storm sewer system or the implementation of the stormwater management program.

4. Regulate, establish standards, review and inspect land use or property owner activities when such activities have the potential to affect the quantity, timing, velocity, erosive forces, quality, environmental value or other characteristics of stormwater which would flow into the stormwater management system or in any way affect the implementation of the stormwater management program.

5. Undertake any activities related to stormwater management when such activities are recommended by applicable federal, state or local agencies or when such activities are required by any permit, regulation, ordinance, or statute governing stormwater or water quality concerns.

6. Analyze the cost of services and benefits provided by the stormwater utility and the structure of fees, service charges, credits, and other revenues on an annual basis and make recommendations to the County Board regarding same.

7. Undertake authorized expenditures as required to implement these activities, including all costs of capital improvements, operations and maintenance, debt services, and other costs as required.

SECTION 8. PRIVATE CONNECTION TO A PUBLIC STORM SEWER

A. STORM SEWER CONNECTIONS:

1. Permit, General: No unauthorized persons shall uncover, make any connections with or opening into, use, alter or disturb any public storm sewer or appurtenance thereof without first obtaining a utility and stormwater permit from the County.

2. Permit Application: The owner or an agent of the owner shall make application on a form furnished by the County. The permit application shall be supplemented by any plans, specifications or other information considered pertinent. A permit and inspection fee shall be paid to the County at the time the application is filed.

3. Connection Costs: All costs and expense incident to the installation and connection of the private storm sewer shall be borne by the owner. The owner shall indemnify the County from any loss or damage that may directly or indirectly be occasioned by the installation of the storm sewer.

4. Construction: The size, slope, alignment, materials of construction of a storm sewer and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of building and plumbing codes or other applicable rules and regulations of the County and the current regulations of the State of Minnesota. In the absence of code provisions or in application thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing and Materials (ASTM) as approved by authorized county personnel shall apply. All connections must be locatable in accordance with this code, Minnesota Rules § 7560, and other applicable rules and regulations of the County. Upon completion, the owner must provide record drawings of the installation.

5. Inspection: The applicant for the utility permit shall notify the County when the private storm sewer is ready for inspection and connection to the public storm sewer. The connection shall be made under the supervision of authorized County personnel.

6. Erosion Control: All excavations must use best management practices (BMP) to prevent sediment from entering the storm sewer system.

7. Safety and Restoration: All excavations for storm sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored to their original condition or to a better condition in a manner satisfactory to the County Engineer. A Utility permit shall be required for all excavations made in the areas of county streets, sidewalks, parkways and other paved areas.

8. Maintenance Responsibility: It shall be the responsibility of the owner to maintain the private storm sewer from their property line up to and including the point where it connects or discharges to the county storm sewer system, whether it is a direct connection to a storm sewer or discharges directly to a stormwater pond. This includes, but is not limited to, damaged pipe and appurtenances, bank erosion, sinkholes around the private storm sewer pipe, and the removal of any erodible materials that have entered the County storm sewer system from the private sewer connection. If the maintenance of the storm sewer requires excavation of the public right of way, the owner shall notify the Engineering department and obtain a Utility permit prior to excavating. The contractor hired by the owner to repair the storm sewer shall follow the other requirements of Subsection A(4) of this section.

SECTION 9: URBANIZED AREA MAP

B. DEFINITIONS:

For the purpose of this Chapter, the following terms, phrases, and words, and their derivatives, shall have the meanings as stated in this section. When inconsistent with the context, words used in the present tense include the future tense. Words in plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and the word "may" is always permissive.

PROHIBITED DISCHARGE: A non-stormwater discharge into the stormwater system or a natural water, including, but not limited to:

1. Debris or other materials such as grass clippings, vegetative materials, tree branches, earth fill, rocks, concrete chunks, metal, other demolition or construction materials, or structures.

2. The disposal or misuse of chemicals or any other materials that would degrade the quality of waters within the system, including, but not limited to, chemicals (fertilizers, herbicides, pesticides, etc.) or petroleum based products (gasoline, oil, fuels, solvents, paints, etc.).

3. Erosion and sediment originating from a property and deposited onto County streets, private properties or into the stormwater conveyance system, including those areas not specifically covered under an approved stormwater management plan or stormwater permit.

4. Failure to remove sediments transported or tracked onto any road by vehicles or construction traffic by the end of each working day.

5. For the purposes of this Chapter, prohibited discharges do not include the following, unless information is available to indicate otherwise:

    Air conditioning condensate
    De-chlorinated swimming pool discharges
    Discharges from potable water sources
    Diverted stream flows
    Flows from riparian habitats and wetlands
    Footing drains
    Foundation drains
    Individual residential car washing
    Irrigation water

Landscape irrigation
Lawn watering
Rising groundwater
Springs
Street wash water
Uncontaminated groundwater infiltration
Uncontaminated pumped groundwater
Water from crawl space pumps
Water line flushing

C. SCOPE:

1. Prohibited Discharges: It shall be considered an offense for any person to cause or allow a prohibited discharge into Waters of the State, including the County, City, or Watershed stormwater system, or any natural water.

SECTION 3. STORMWATER MANAGEMENT PLAN; APPROVAL STANDARDS

A. GENERAL:

This Section describes the approval standards used to evaluate a proposed stormwater management plan. The County Engineer shall not approve a stormwater management plan which fails to meet these standards. Other applicable standards, such as state and federal standards, shall also apply. If the standards of different agencies conflict, the more restrictive standards shall apply.

It shall be the applicant's responsibility to obtain any required permits from other governmental agencies having any jurisdictional authority over the work to be performed. Typically, such agencies include, but are not limited to, the Buffalo Red River Watershed District (BRRWD), the City of Moorhead, the City of Dilworth, the Minnesota Department of Natural Resources (DNR), the Minnesota Department of Transportation (MnDOT), the Minnesota Pollution Control Agency (MPCA), the State Historic Preservation Office (SHPO), the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency (EPA), Federal Emergency Management Agency (FEMA), and others.

B. STORMWATER MANUAL:

The "Minnesota Stormwater Manual" (manual) contains the principal standards and design criteria for developing an effective and acceptable stormwater management plan. The manual contains detailed criteria for hydrologic evaluations, the design of stormwater management system facility components, water quality protection standards, and instructions for the development of an erosion and sedimentation control plan. Upon request, the County will provide requirements for easements and rights of way, standard forms to be used, and standard construction details approved by the County.

C. MODELS/METHODOLOGIES/COMPUTATIONS:

Other than those outlined in the manual, any hydrologic models and/or design methodologies used to determine runoff conditions and to analyze stormwater management structures and facilities, shall be approved in advance by the County Engineer. All stormwater management plans, drawings, specifications, and computations for stormwater management facilities submitted for review shall be signed by a professional engineer registered in the State of Minnesota. This requirement will be met as part of a properly-completed stormwater management plan.

D. STORMWATER MANAGEMENT CRITERIA FOR PERMANENT FACILITIES:

Stormwater control facilities included as part of the final design for a permanent development shall be addressed in the stormwater management plan and shall meet the following criteria:

1. Pre- Versus Post-hydrological Response of Site: An applicant shall install or construct, on or for the proposed land disturbing activity or development activity, all stormwater management facilities necessary to manage runoff such that increases in flow under the design conditions will not occur that could exceed the capacity of the outlet, or the stormwater management system, into which the site discharges or that would cause the stormwater management system to be overloaded or accelerate channel erosion as a result of the proposed land disturbing activity or development activity. Under no circumstances shall the 2-, 10-, or 100-year developed peak flow exceed the 2-, 10-, or 100-year existing peak flow without prior written approval by the County Engineer. For regional detention or stormwater management system, the County Engineer shall recommend a proposed system charge or assessment to be approved by the County Board based upon an approved watershed master plan and an analysis of required drainage systems, projected costs and flood protection benefits provided to those properties directly or indirectly impacted by the regional detention or stormwater management system

2. Natural Features of Site: The applicant shall give consideration to reducing the need for stormwater management system facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional water flow without compromising the integrity or quality of these natural features.

3. Stormwater Management Strategies: The following stormwater management practices shall be investigated when developing a stormwater management plan:

    a. Natural infiltration of precipitation and runoff on site, if suitable soil profiles can be created during site grading. The purpose of this strategy is to encourage the development of a stormwater management plan that encourages natural infiltration. This includes providing as much natural or vegetated area on the site as possible, minimizing impervious surfaces, and directing runoff to vegetated areas rather than onto adjoining streets, storm sewers and ditches;

    b. Flow attenuation by use of open vegetated swales and natural depressions;

    c. Stormwater detention facilities;

    d. Stormwater retention facilities (on a case by case basis); and

    e. Other facilities requested by the County Engineer.

A combination of successive practices may be used to achieve the applicable minimum

control requirements specified. Justification shall be provided by the applicant for the method selected.

4. Adequacy of Outlets: The adequacy of any outlet used as a discharge point for proposed stormwater management system must be assessed and documented to the satisfaction of the County Engineer. To the extent practicable, hydraulic capacities of downstream natural channels, storm sewer systems, or streets shall be evaluated to determine if they have sufficient conveyance capacity to receive and accommodate post-development runoff discharges and volumes without causing increased property damages or any increase in the established base flood elevation. If a floodplain or floodway has not been established by the Federal Emergency Management Agency (FEMA), the applicant shall provide a documented analysis and estimate of the base flood elevation as certified by a Professional Engineer registered in the State of Minnesota. In addition, projected velocities in downstream natural or manmade channels shall not exceed that which is reasonably anticipated to cause erosion unless protective measures acceptable to the County Engineer are approved and installed as part of the stormwater management plan. The assessment of outlet adequacy shall be included in the stormwater management plan.

5. Stormwater Detention/Retention Facilities: Stormwater detention or retention facilities proposed to be constructed in the stormwater management plan shall be designed according to the most current technology as reflected in the Minnesota Stormwater Manual.

E. OPERATION, MAINTENANCE AND INSPECTION:

All stormwater management systems shall be designed to minimize the need for maintenance, to provide easy vehicle (typically 8 feet or wider) and personnel access for maintenance purposes, and to be structurally sound. All stormwater management systems shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in stormwater runoff. The County Engineer may inspect all public and private stormwater management systems at any time. Inspection records will be kept on file at the County Engineer's office. It shall be the responsibility of the applicant to obtain any necessary easements or other property interests to allow access to the stormwater management system for inspection and maintenance purposes. The County Engineer shall retain enforcement powers for assuring adequate operation and maintenance activities through permit conditions, penalties, noncompliance orders and fees.

The County Engineer or his/her designated representative shall inspect all stormwater management systems during construction, during the first year of operation and at least once every five (5) years thereafter. The County will keep all inspection records on file for a period of three (3) years beyond the NPDES permit period.

F. EASEMENTS:

Easements may be required as conditions to the approval of a stormwater management plan and/or permit. If a stormwater management plan involves directing some or all of the site's runoff to a drainage easement, the applicant or his designated representative shall obtain from the

property owners any necessary easements or other property interests concerning the flowing of such water.

G. PLAN APPLICABILITY:

A stormwater management plan approval issued under this Section runs with the land and is a condition of plat or development approval. Any landowner or subsequent landowner of any parcel within the plat or development area must comply with the plan or any approval, condition, revision or modification of the plan. Failure to comply with this plan shall constitute a violation and subject the permittee, developer, and/or landowner to the enforcement provisions, penalties and noncompliance fees.

H. PLAN AMENDMENTS:

Stormwater management plans may be amended only by a written request submitted to the County Engineer. This request shall contain the reason for the change and documentation related to any additional change in projected impacts, which may result from amendment approval. Amendment requests submitted prior to final approval of a plan application shall be considered part of the original submittal. Amendment requests filed after plan approval shall be considered following the same procedures as if it were a new application and subject to all applicable fees and review periods. The County Engineer may waive all or part of the fees if the amendment is minor.

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING, is made and entered into this ____ day of _____, 2012 (hereinafter referred to as "the effective date") by and between the City of Dilworth, a Minnesota Home Rule Charter City, 2 First Avenue SE, Dilworth, MN 56529 (hereinafter referred to as "the City"), and the County of Clay, a political subdivision of the State of Minnesota, 807 11th Street North, Moorhead, MN 56560 (hereinafter referred to as "the County").

WHEREAS, Minnesota Rules, Chapter 7090 designates both the City and the County as Mandatory Small Municipal Separate Storm Sewer Systems (hereinafter referred to as "MS4's") and as such requires both the City and the County to hold a MS4 permits to ensure compliance with these rules; and

WHEREAS, both the City and the County currently hold a MS4 permit which mandates the development, implementation and enforcement of a program to detect and eliminate illicit discharges into the MS4. Such permit also requires both the City and the County to establish a regulatory mechanism providing enforcement procedures and actions in the event of non-storm water discharges into the MS4; and

WHEREAS, the County's Urbanized Area, is defined by the 2010 Census, and defines the County's MS4 boundary. The County's MS4 boundary nearly encompasses the entire MS4 boundary of the City; and

WHEREAS, the City has jurisdiction over planning and zoning activities within City limits; and

WHEREAS, the City and the County strive to ensure compliance with the MS4 permitting requirements and believe an opportunity exists to reduce duplicative regulatory oversight, thus improving efficiency; and

WHEREAS, pursuant to the terms and conditions of this Memorandum of Understanding, the City and the County concur that the City's regulatory mechanism relating to Storm Water Management, Dilworth Ordinance 05-03, will be enforced within the City's MS4 boundary as they are the rightful authority for all planning and zoning regulations within their jurisdiction, regardless of ownership of the outfall or facility affected.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. Purpose. This Memorandum of Understanding is made pursuant to Minn. Stat. § 471.59, which authorizes the joint and cooperative exercise of power common to the governmental parties. The intent of this agreement is to increase efficiencies and reduce jurisdictional discrepancies with respect to the enforcement of the MS4 permits held by both the City and the County.

2. Term. This Memorandum of Understanding shall terminate in 2020, when new Census data becomes available.

3. Procedures. The City and the County agree that the following procedures will govern the enforcement of the MS4 permit within the City's jurisdiction:

   Subd. 1. Utilization of the City's Ordinance. As jurisdictional authority of all planning and zoning issues within the City, the City is hereby authorized to enforce the City's Storm Water Management Ordinance, Dilworth Ordinance 05-03, within the City Limits when enforcement actions are necessary regardless of the facility or outfall affected.

   Subd. 2. All other Permit Responsibilities. Other than utilization of the City's Storm Water Management Ordinance within City Limits, the County and the City will independently accomplish their respective responsibilities required by their MS4 permits.

   Subd. 3. Costs to amend or modify the ordinance. The costs associated with amending or modifying the ordinance shall be the responsibility of the City.

4. Liability. For the purposes of the Minnesota Municipal Tort Liability Act (Minn. Stat. Ch. 466), the employees and officers of a party are deemed to be employees (as defined in Minn. Stat. § 466.01, subdivision 6) of that party. Under no circumstances shall a party, irrespective of whether it may have waived the limit on liability set forth in Minnesota Statutes, Chapter 466, be required to pay on behalf of itself or the other party, any amounts in excess of the limits on liability established in Minnesota Statutes, Chapter 466 applicable to any one party. The limits of liability for some or all of the parties may not be added or stacked together to determine a maximum amount of liability for each party.

5. Merger Clause. This agreement constitutes the entire agreement by and between the parties, and any other prior representations or agreements are deemed merged herein, and those not specified herein do not represent any agreements or promises or covenants or representations on the part of either party hereto.

6. Written Amendment Required. No amendment, modification, or waiver of any condition, provision or term shall be valid or of any effect unless made in writing signed by the party or parties to be bound, or a duly authorized representative, and specifying with particularity the extent and nature of such amendment, modification or waiver. Any waiver by any party of any default of another party shall not affect or impair any right arising from any subsequent default. Except as expressly and specifically stated otherwise, nothing herein shall limit the remedies and rights of the parties thereto under and pursuant to this Memorandum of Understanding.

7. Grammatical Construction. Whenever the singular number is used herein, the same shall include the plural where appropriate, and the words of any gender shall include any other genders where appropriate.

8. Severability Clause. Each provision, section, sentence, clause, phrase, and word of this Memorandum of Understanding is intended to be severable. If any provision, section, sentence, clause, phrase, and word hereof is held by a court with jurisdiction to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this Memorandum of Understanding.

9. Agreement Binding on Successors. This Memorandum of Understanding shall be binding upon and inure to the benefit of the parties hereto and their respective personal representatives, successors and assigns.

10. Minnesota Law Applies. This Memorandum of Understanding shall be controlled by the laws of the State of Minnesota, and any action brought as a result of any claim, demand or cause of action arising under the terms of this Memorandum of Understanding shall be brought in an appropriate venue in the State of Minnesota.

11. Execution in Counterparts. This Memorandum of Understanding may be executed in counterparts with both the City and the County having a fully-executed counterpart.

CITY OF DILWORTH	COUNTY OF CLAY
BY: _____	BY: _____
Mayor of Dilworth	Chair, Clay County Board of Commissioners
BY: _____	BY: _____
Dilworth City Council	Clay County Administrator

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING, made and entered into this 26 day of March, 2013 (hereinafter referred to as the "effective date") by and between the City of Moorhead, a Minnesota Home Rule Charter City, 500 Center Avenue, Moorhead, MN 56561-0779 (hereinafter referred to as "the City"), and the County of Clay, Minnesota, a political subdivision of the State of Minnesota, 807 11th Street North, Moorhead, MN 56560 (hereinafter referred to as the "the County") .

WHEREAS, Minnesota Rules, Chapter 7090 designates both the City and the County as Mandatory Small Municipal Separate Storm Sewer Systems (hereinafter referred to as "MS4's") and as such requires both the City and the County to hold a MS4 permits to ensure compliance with these rules; and

WHEREAS, both the City and the County currently hold a MS4 permit which mandates the development, implementation and enforcement of a Stormwater Pollution Prevention Program (SWPPP). Such permit also requires both the City and the County to establish a regulatory mechanism providing enforcement procedures and actions in the event of non-compliance with the applicable regulatory mechanism; and

WHEREAS, the County's Urbanized Area, is defined by the 2010 Census, and defines the County's MS4 boundary. The County's MS4 boundary nearly encompasses the entire MS4 boundary of the City; and

WHEREAS, the City has jurisdiction over planning and zoning activities within City limits; and

WHEREAS, the City and the County strive to ensure compliance with the MS4 permitting requirements and believe an opportunity exists to reduce duplicative regulatory oversight, thus improving efficiency; and

WHEREAS, pursuant to the terms and conditions of this Memorandum of Understanding, the City and the County concur that the City's regulatory mechanism relating to Stormwater Management, Title 3, Chapter 8, will be enforced within the City's MS4 boundary as they are the rightful authority for all planning and zoning regulations within their jurisdiction, regardless of ownership of the outfall or facility affected.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

1. Purpose. This Memorandum of Understanding is made pursuant to Minn. Stat. § 471.59, which authorizes the joint and cooperative exercise of power common to the governmental parties. The intent of this agreement is to increase efficiencies and reduce jurisdictional discrepancies with respect to the enforcement of the MS4 permits held by both the City and the County.

2. Term. This Memorandum of Understanding shall terminate in 2020, when new Census data becomes available.

3. Procedures. The City and the County agree that the following procedures will govern the enforcement of the MS4 permit within the City's jurisdiction:

   Subd. 1. Utilization of the City's Ordinance. As jurisdictional authority of all planning and zoning issues within the City, the City is hereby authorized to enforce the City's Stormwater Management Ordinance, Title 3, Chapter 8, within the City Limits when enforcement actions are necessary regardless of the ownership of the facility or outfall affected.

   Subd. 2. All other Permit Responsibilities. Other than utilization of the City's Stormwater Management Ordinance within the City and to any property which by contract or agreement with the City, users of the City's stormwater system, the County and the City will independently accomplish their respective responsibilities required by their MS4 permits.

   Subd. 3. Costs to amend or modify the ordinance. The costs associated with amending or modifying the ordinance shall be the responsibility of the City.

4. Liability. For the purposes of the Minnesota Municipal Tort Liability Act (Minn. Stat. Ch. 466), the employees and officers of a party are deemed to be employees (as defined in Minn. Stat. § 466.01, subdivision 6) of that party. Under no circumstances shall a party, irrespective of whether it may have waived the limit on liability set forth in Minnesota Statutes, Chapter 466, be required to pay on behalf of itself or the other party, any amounts in excess of the limits on liability established in Minnesota Statutes, Chapter 466 applicable to any one party. The limits of liability for some or all of the parties may not be added or stacked together to determine a maximum amount of liability for each party.

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CITY OF MOORHEAD	CLAY COUNTY
BY: _____	BY: _____
Mayor	Clay County Chairperson
BY: _____	BY: _____
City Manager	County Administrator